

United States
Circuit Court of Appeals
For the Ninth Circuit.

Transcript of Record.
(IN THREE VOLUMES.)

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

VOLUME III.
(Pages 833 to 1339, Inclusive.)

Upon Writ of Error to the United States District Court of the
Southern District of California, Southern Division.

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(Testimony of W. I. Madeira.)

I found the defendant there and I took him into custody.

Q. What conversation did you have at the time you took him into custody?

A. Before he was arrested, he asked by what authority, and I showed him the telegram from the United States attorney at Los Angeles instructing the inspector in charge at San Francisco—

Mr. SCHENCK.—Just a moment. I would like to see the telegram. That would be the best evidence.

Mr. REGAN.—Go ahead.

A. —to have him taken into custody, as I recall, not having refreshed my memory from looking at the telegram, and a warrant or a certified copy of a warrant was being forwarded. The defendant appeared satisfied and asked me what we proposed to do. Mr. Dinan spoke up and said, “We are going to take you to the city jail.” He says, “May I take some personal effects and clothing with me?” And he said, “Yes; but you will have to pack your grip in our presence.” Which was agreed to. Mr. Dinan stepped into the other room with the defendant and he packed his grip—a black grip. Clerk Morse and myself observed this trunk—this open trunk in the middle of the floor with the literature all over the floor and we examined [689] it and found that it was the literature of the Panama Development Company apparently being discarded, and we picked it up and put it in the trunk and shut the trunk down and strapped it. It was a leather trunk with two leather straps. The defendant came into

(Testimony of W. I. Madeira.)

the room with Mr. Dinan and we all went downstairs. I couldn't say how many trunks there were in the room for the reason that I only glanced into the other room where there were at least two trunks. On the way downstairs the defendant stepped over to the clerk and said, "Keep my suite of rooms; I will be back." They then went into the bar-room. The defendant said, "I am upset. I want a drink." And Mr. Dinan and Mr. Morse and the defendant stepped into the hotel bar-room and we then went across the Union Square Park and around to the Eddy Street Jail.

Q. What happened after you went in the jail?

A. We went into the presence of the chief of detectives and Mr. Dinan, who had him in custody as the officer, and I instructed the chief of detectives to accord Mr. Lyman any and every privilege that could be accorded as a federal prisoner, and spoke in that way. That he would be taken in custody the following morning by the United States Marshal, and he would be kept in transit, as they term it on the books, but he should be allowed the privilege of seeing any one of his friends, or sending any message as far as the prison rules allowed. The defendant wrote two telegrams in my presence, and was allowed to send for a messenger boy to send the telegrams. He sent the telegrams first and then sent a message to Mr. Colon on Eddy Street. I saw him again on Monday the 11th of September in the Federal Building, at the preliminary examination before United States Commissioner Brown. When I left the Union Square Hotel all the trunks were left

(Testimony of W. I. Madeira.)

behind. I afterwards returned to the Union Square Hotel the same night and ascertained that [690] the hotel had taken the trunks out of the rooms and they were all in the upper hall. The following morning I had the small trunk taken to my office in the Federal Building.

Q. Did you examine or open the other trunks that were left behind?

A. I did on Monday afternoon the 11th, at the Union Square Hotel. The defendant had no vest and he informed me that he was in need of clothes and I volunteered to go and get him such personal effects as he might desire, and he handed me his keys. I went over to the hotel, was informed that the trunks were in the basement and in company with the head porter, we went to the storage-room and opened the trunks. We took out a vest or two, some underclothes, socks, handkerchiefs, neckties, and put them in a dress-suit case, which I took over to the United States Marshal's office, only to find that the defendant had been taken toward the jail. I gave the suit case and the keys to the United States Marshal, told him they were Dr. Lyman's. I learned subsequently that they were delivered to the jail at Oakland. I did not examine the trunks except in the instances stated.

Q. Was an examination made in the Federal Building of the contents of the trunk that was brought there?

A. There was. It contained this discarded literature which we placed back in the trunk and one or

(Testimony of W. I. Madeira.)

two books or pamphlets on Panama, some fishing tackle, and I think, a small medicine chest and a few things of that nature, and I think two or three small books, which, of course, we didn't pay any attention to, and these books and papers were afterward turned over to Mr. Gray, the Postoffice inspector. I found in the [691] trunk among the effects of the defendant, a signed blank check similar to the one you show me, which I turned over among others to Mr. Gray.

(The check so identified was introduced and read in evidence, marked U. S. Exhibit 219, and read as follows:)

**U. S. Exhibit No. 219—Blank Check of Panama
Dev. Co.**

“Los Angeles, California, — No. —.

NATIONAL BANK OF CALIFORNIA.

Pay to — or order \$ ——— Dollars.

PANAMA DEVELOPMENT COMPANY.

JOHN REDPATH,

Vice-President.

L. R. SMITH,

Sec.

[Endorsed]: 672—Crim. U. S. vs. Lyman. U. S. Exhibit 219. Filed Nov. 21, 1913. Wm. M. Van Dyke, Clerk. By Leslie C. Colyer, Deputy.”

I also found another signed blank check in the trunk that looks like the one you hand me, which I delivered to Mr. Gray.

(Said check was introduced and read in evidence, marked U. S. Exhibit 220, and reads as follows:)

(Testimony of W. I. Madeira.)

**U. S. Exhibit No. 220—Blank Check of Panama
Dev. Co.**

SECURITY SAVINGS BANK.

No. ———

Los Angeles, Cal. ——— 191——

Pay to the order of ——— \$ ————Dollars.

**PANAMA DEVELOPMENT COMPANY,
JOHN REDPATH,
Vice-President.**

E. A. LYNN,

Asst. Sec.

[Endorsed]: 672—Crim. U. S. v. Lyman. U. S. Exhibit 220. Filed Nov. 21, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy.

Q. I show you an envelope addressed to John G. Lyman, Box 181, Los Angeles, California, Station C., and a letter [692] addressed "My Darling Jack," and I will ask you whether or not that letter was in the trunk among the effects of the defendant?

A. It was.

Q. (By Mr. REGAN.) I will show you five other letters, and I will ask you to examine those letters—five other envelopes containing letters, and I will ask you to examine each letter and state whether or not they were found in the effects of the defendant. Just examine the letters.

A. These letters were all found in the small trunk. I read them at the time I found them.

Mr. REGAN.—I will ask that the five letters just identified by the witness be considered a part of the

(Testimony of W. I. Madeira.)

sixth letter, which is marked United States Exhibit 221 for identification, and that they all be considered as United States Exhibit 221, for identification, collectively. It will include six letters.

Q. And those letters were afterwards delivered by you to Mr. Gray?

A. I turned the trunk with the entire contents to Mr. Gray. I took nothing from it, and I have not seen them since I turned them over to Mr. Gray two years ago or more.

Cross-examination.

By Mr. SCHENCK.—I have been postoffice inspector for about 9 years, and have taken part in a great many arrests during that time. I have not the power to arrest.

Q. Then you have not the power to say what should be done with a person when he is arrested?

A. I give directions lots of times that are carried out.

Q. What became of that small trunk? Do you know where it is now?

A. Yes, sir. It was sent to the defendant's uncle, Mr. Van. [693] The papers were taken out and given to Mr. Gray and the defendant's personal effects sent to his uncle. I do not know whether the contents of the trunk ever came down here or are here now. I made no investigation of what there was there in the way of letters, papers or documents. I was instructed to keep out of the case. I had my office in San Francisco, and didn't care to be a witness in the case. I am not inspector in charge there now. Mr. Hall was inspector in charge then.

Testimony of Robert H. Morse, for Plaintiff.

ROBERT H. MORSE, a witness called on behalf of the United States, being first duly sworn, testified as follows:

I remember going to the Union Square Hotel with Mr. Madeira and Mr. Dinan. They went up to the defendant's room in the Union Square Hotel, and was present when Mr. Madeira inquired for James Lindsay.

Q. State what happened after you and Mr. Madeira and Mr. Dinan went into the defendant's room?

When we knocked at the door, the defendant opened the door and said, "Come in," and he was standing in the middle of the floor and there were a number of trunks in front of him, or in different positions on the floor. I believe they were all closed but one small trunk. He says, "What is it, gentlemen"? I believe Detective Sergeant Dinan said he was from the office of the Captain of Detectives and that the captain wanted to see him. And he wanted to know what he was wanted for and Mr. Madeira, if I am not mistaken, at the time, said he was wanted in connection with the Panama Development Company of Los Angeles. He then wanted to know if he could take some wearing apparel or something with him, and he was told that he could take anything that he desired in the way of wearing apparel, and he left the room that he was standing in and went into a side room and detective Dinan accompanied him in the [694] side room. When he went into

(Testimony of Robert H. Morse.)

the side room, I sat down in a chair that was in front of this open trunk or box—it was a leather covered box—and to the right of the box, was a large number or quite a pile of literature, circular letters, pamphlets and so forth, that appeared to have been removed from this box. And I looked through the pile of literature to see if it all pertained to the Panama Development Company—the circular letters and pamphlets describing certain lands in Panama—and one thing or another, and I thought it would be good evidence, some of it, and I looked over, and selected a number of pieces from them and put them in my pocket. By that time, the defendant had completed his preparations in the other room and returned with a hand grip, or black hand bag, wherein he had put the toilet articles and clothing and such necessities as he desired. We then left the room and descended in the elevator to the lower floor and Mr. Madeira went to the desk of the hotel office. We went out of the side entrance on Stockton Street, Detective Dinan, myself and the defendant. While passing through the corridor, there is a doorway to the right. The defendant asked if he could go in there and get a drink. He said he was thirsty. We said, “Certainly.” There is a saloon in the corner of the hotel building. We took the defendant in there and he had a glass of beer, I believe. We then left the saloon and walked across Union Square, diagonally from Stockton and Post Street to Geary Street and Powell and we walked down Powell Street to Eddy, and as we got to Eddy Street, we

(Testimony of Robert H. Morse.)

met Inspector Madeira again and walked up Eddy Street to, at that time, the Hall of Justice city prison of San Francisco, and we went into the office of the Captain of Detectives. Captain Ryan was then [695] night captain. We took him into the office and he asked if he could send for a messenger boy to send a telegram. We said, "Certainly." And we allowed him to sit down—the captain got up and allowed him to sit at the captain's desk—and he was supplied with stationery and telegrams. We sent for a messenger boy, and he sent a message to J. M. Colon, to a number on Eddy Street. At the captain's office, the captain told him that if anybody wanted to see him it would be permitted and the same information was given to the desk sergeant of the city prison to allow him to see anybody or allow him to send out for anything he desired. At no time did the defendant say that he was hungry and wanted something to eat. The only thing he asked for was the drink at the Union Square Hotel and he received that.

Cross-examination.

There were four or five trunks in the room. After the defendant was arrested we went back and instructed the hotel clerk, to lock the trunks and put them in some safe place. We looked through all this literature again and put the pamphlets and stuff in the small trunk and told the hotel man to put them in a safe place. The following day the small trunk was removed to our office. We did not search

(Testimony of George H. Burnham.)

through the trunks. We searched through the literature in the small trunk that was removed to our office.

Testimony of George H. Burnham, for Plaintiff.

GEORGE H. BURNHAM, called and sworn as a witness on behalf of the United States, testified as follows:

Direct Examination.

I am and was in 1911 Chief Deputy United States Marshal for the Northern District of California. Mr. Fitzgerald in [696] 1911 was a deputy in my office. The defendant was brought into the office September 11, 1911, by Mr. Fitzgerald, and a warrant had been served upon him two days previous charging him with an offense committed in the Southern District of California. The defendant told me that he had a railroad ticket that he had purchased from San Francisco to Portland, that he had not used, and that he would like to go to the railroad office to get a refund on the same. I told Mr. Fitzgerald when he took him back to jail that day to go to the railroad office and get a refund. That morning the doctor had been taken before the United States Commissioner, and his bond fixed at \$2,500. The doctor said he thought he would be able to give that bond. Shortly after that Mr. Fitzgerald left with Dr. Lyman for the Alameda county jail. We were executing the commitment issued by the commissioner. I next saw the defendant about nine o'clock that evening, in the Alameda county jail at Oakland. The doctor was injured and said he was

(Testimony of George H. Burnham.)

suffering great pain. He said he fell out of a street car in San Francisco, that he was running for a street car and it hadn't stopped before he got on and in trying to get on he fell off and hurt his ankle. The doctor wanted to go to the hospital. I told him I would not permit that under the circumstances. On the 14th, Judge Van Fleet and Judge Van Haven made an order jointly permitting the doctor to be taken to the hospital. Mr. Spurrier and Mr. Courtwright were employed as guards. The doctor went to the hospital on the 15th. Mr. Van, his uncle, used to come to see him at the jail. The defendant escaped on the 24th of September.

**Testimony of Maurice Joseph Fitzgerald, for
Plaintiff.**

MAURICE JOSEPH FITZGERALD, called and sworn as a witness on behalf of the Government, testified as follows: [697]

In 1911, I was deputy United States marshal for the Northern District of California, and served a warrant of arrest on the defendant, in San Francisco on the 9th day of September, Mr. Burnham instructed me to take the defendant to jail and after leaving the marshal's office I took Mr. Lyman to the Flood Building to have his ticket redeemed. At the Flood Building the clerk there told us that the ticket was purchased at the Palace Hotel ticket office and we would have to go there. We walked to the Palace Hotel and there is a drug store next to the ticket office and Mr. Lyman asked if he could go in to purchase some soap and other toilet articles, which I

(Testimony of Maurice Joseph Fitzgerald.)

permitted, and while he was purchasing he asked me if I would take a glass of soda water and would have some chocolate ice cream in it. I said yes. When I turned around he was gone. I started out and rushed up to the entrance of the Palace Hotel and went into the court and found it would be almost impossible to find him there from the number of people, and I went out and looked towards the ferry, east. I saw a policeman with a civilian coming toward the ticket office and they laid him on the outside sill of the window of the ticket office. I went up there and took charge of the defendant and took him to the emergency hospital where he was treated, and the same night took him to the Alameda county jail and on the 15th from the Alameda county jail to the Providence Hospital.

Testimony of Edward G. McDonnell, for Plaintiff.

EDWARD G. McDONNELL, called and sworn as a witness on behalf of the United States, testified as follows:

I was on the San Francisco police force in 1911, and saw the defendant in September. I was doing regulating traffic duty at the corner of Montgomery and Market Street and was [698] standing about five or six feet from the south-bound track of the Market street cars going toward the ferry. My attention was called by a machine coming along by the edge of the sidewalk, and I was about to speak to the machine and I saw a tall man coming from the Palace Hotel and running down the sidewalk. The machine was moving slowly. I saw the gentleman

(Testimony of Edward G. McDonnell.)

running down on the sidewalk and he started to run out, and this machine had worked in amongst the people and turned out to the outside curb, and my attention was attracted to this man running. He turned around to look, and turned around and looked again, and fell down. He was running right toward the automobile. I went over and saw he couldn't get up and picked him up. He was the defendant. He was down holding his leg, and another gentleman helped me lift him up and we started to carry him and another man said, "I will take care of him." This man was the chauffeur, in the automobile I saw. A man in the machine said, "I will take him to the hospital." I said, "No, I will take care of him now." I asked the gentleman where he was going and he said he was running for the boat. I said, "That is a long way from here. Why didn't you take a street-car? The ferry is a mile away." I said, "What boat do you mean?" He said "The Sausalito boat," and this other gentleman gave me a hand and we carried him back to the window on the Palace Hotel. As I was calling the wagon, a gentleman came along and says, "I am going with him." I recognized the United States marshal and let him go in the wagon to the hospital.

Cross-examination.

By Mr. SCHENCK.—I couldn't say who the man in the car was. I was afterwards [699] introduced to a man and to the best of my knowledge, I think it was that—he was pointed out to me in the postoffice in San Francisco in the marshal's office. The man pointed out was named Colon."

Testimony of Louis B. Thonnet, for Plaintiff.

LOUIS B. THONNET, called on behalf of the United States, having been duly sworn, testified as follows:

I first met defendant in New York City, five or six years ago. After that I saw him at the Providence Hospital in the year 1911; I took a position there as nurse. I applied for the position in the morning and the defendant came in the afternoon. I was employed as a general male nurse, attending to the different male patients, answering calls and things of that sort. I saw the defendant Lyman upon his immediate entrance to the hospital. I did not have any conversation with him at that time. I had a conversation with him the next morning or afternoon; there was a telephone message for Dr. Lyman and I sent to Dr. Lyman's room and told Mr. Courtright (a guard) he was wanted at the telephone. He started to answer the phone and I stayed there and had a talk with him. Mr. Lyman did not remember my face, but I recalled it to him and told him I had come there to see if I could do anything for him, if he wished me to. I also told him I had seen by the papers the scrape he was in and if I could help him in any way I would do so. I told him if he thought he wished to escape I would give him a hand. The defendant answered me that whatever I did was O. K.

A. I told Lyman not to have anything to do with the night man and I would fix arrangements with the day man; I thought I might be able to help. The

(Testimony of Louis B. Thonnet.)

defendant said he would see what he could do at that time. He left the details of arranging everything to me. [700]

Q. How long were you at the hospital before the defendant came there?

A. I couldn't just say. Between five and ten days.

Q. Did you talk with Courtright in the interim?

A. No, I had no conversation with Courtright except the evening of the escape. I told Lyman that he was liable to be brought back to the jail at any time and we had best not wait much longer, and that I was going out that evening and have everything fixed for the following night. He told me to go ahead the way I had things fixed up. I went down to Sixth street, Oakland, and arranged with the proprietress of the house for us to stop there and arranged with her to get rid of Mr. Courtright at that place, for him to be detained by one of the young ladies there. I looked over the house thoroughly and saw that we could get out pretty quick and then I left there. I had been looking up different automobile men in Oakland, and looked up Mr. Golindo as having owned a car, or his father owned it, and I hired him for the trip, and went over the ground with him.

Q. The route that you were to take from the hospital?

A. The route from the hospital to Sixth Street; and also received the suitcase or grip at the Key Route Inn, which I had checked there, which I had

(Testimony of Louis B. Thonnet.)

got at Mr. L. F. Van's house on Lyman's direction. I arranged with Mr. Golindo to be at the hospital between 9 and 10 o'clock and when he saw a light in the corner room which I had shown him as Lyman's room, he was to start his engine and be ready for us, when he saw that blink twice. I left the grip in care of Mr. Golindo's father at 12th and Webster, he was to meet us there after we got rid of Mr. Courtright.

Q. Now, had Lyman told you before the night of the escape [701] what he had said to Courtright in reference to getting Courtright to go?

A. Lyman had told Courtright that he wished to go out for a couple of hours' ride, and go down there and be entertained, and return again; on the night we left the hospital there were one or two nurses in the hall, and a sister. I got rid of the nurses, and took the sister up to the third floor in the elevator myself, and brought the elevator back and signaled for Courtright and Lyman that it was all right. They came up to the elevator and I turned the light out and ran it down to the basement. They got out of the elevator and I told them how to go through the basement to the back entrance and then I ran the elevator back to the main floor and switched the light on in the elevator and went down to the basement by way of the stairs and overtook them before they went out on the street. Golindo was there and we got into the car; Golindo and myself in the front and Courtright and Lyman in the tonneau. We went direct to Sixth Street to the house where I had

(Testimony of Louis B. Thonnet.)

visited and made arrangements. Lyman stepped into the back room with one of the young ladies and I stayed there with Mr. Courtright and Courtright went with another young lady and as soon as he did so, I went around to the room where Lyman was and we immediately left by the back door, right out in front and the automobile was all ready, the engine running, and it started immediately then for Twelfth and Webster, and received the grip from Golindo's father. We then told Golindo to get right out for Sacramento. We paid Golindo's father \$40.00. I got the money from Lyman. I also paid the people at the house \$15.00 the night I called down there to make the arrangements, and \$30.00 the night we left. Lyman gave me the money. On leaving San Francisco we [702] went by way of Stockton to Sacramento and registered at the Capitol Hotel, we had breakfast there, all three of us. In finished breakfast as soon as possible and went out to make some purchases. From Sacramento we went to Marysville and I hired another car there, at the direction of Lyman. When we arrived at Marysville I dismissed the driver and paid him \$15.00. At Marysville we hired another car, the driver's name was Haswell Merle. We left Marysville in his automobile by way of Shasta Springs. When we got to Vina the defendant bought a newspaper. It stated in there the fact of the escape and the whereabouts of the officers that were looking for us. Lyman said we had better get started, not to hang around much. He just mentioned the fact to hustle along; also not

(Testimony of Louis B. Thonnet.)

to bother about breakfast and told me to try to see that Merle and myself should not wait for breakfast but stop some other place. We drove to Lakeview and went to a garage. I left the garage to go uptown and get some papers and coming out of the door were two men there crossing the street to the garage. They looked pretty sharp at me and I concluded they looked to be officers, so I turned around and watched them go in there; they approached the car and Lyman got out, so I just started right along then to leave town. I later returned to the City Hall and gave myself up to the sheriff. We were taken by the sheriff from Lakeview Falls to Klamath Falls. Half way between Klamath Falls and Blythe, Oregon, we were met by Deputy United States Marshal Enrick and taken by him to Klamath Falls.

Q. Now, up to that time had Lyman said anything to you about paying you anything if he escaped?

A. No. I never spoke to him in regard to any payment.

Cross-examination.

(By Mr. SCHENCK.)

Q. As between you and the defendant Lyman, who first suggested [703] escape? A. I did.

Mr. SCHENCK.—That is all.

Mr. REGAN.—One more question. Was there anything said by the defendant to you with reference to his having been considering the same thing?

A. No; because he did not know me; he didn't recognize me I went up there to know if he wished

(Testimony of Paul J. Arnerich.)

to or not. When I made this suggestion to him he tolod me he would see me again later on in regard to that.

Testimony of Paul J. Arnerich, for Plaintiff.

PAUL J. ARNERICH, called on behalf of the United States, having been duly sworn, testified as follows:

I am deputy United States Marshal and was so in 1911. I remember going to Klamath Falls in September, 1911. I was looking for Dr. John Grant Lyman. I found him and took him into custody at Blythe, Oregon, about sixty miles east of Klamath Falls. I had a conversation with the defendant and he said he had not been brought before a commissioner and he wanted to be brought before a United States Commissioner. He kept arguing with me about wanting to go to the nearest commissioner to Klamath Falls, Oregon, and as we came to Klamath Falls he began to holler and waive his hands and began to call for people to come and help him that he was being kidnapped. The people surrounded us and I made a few threats to shoot a couple that crawled into the machine. Finally I got him into the county jail. He told the crowd that I was not an officer in that State; that I was an outsider and had no right to have him and that I was trying to kidnap him and take him back to California. When he was taken to jail I searched him, took his watch and chain off of him and thirty or forty dollars in [704] change and a certified check for one hundred and fifty dollars and some currency.

(Testimony of Paul J. Arnerich.)

Cross-examination.

(By Mr. SCHENCK.)

Q. Did you have a warrant for him and did you show it to him?

A. Yes, sir. I left it with the sheriff in his safe. I had an *alias* warrant for each of them and that is what I held him by, there at the Klamath Falls county jail, until the deputy came from Portland with his warrant.

Q. You say you made some threat against the crowd, you also made some against the defendant, didn't you?

A. Yes, I did. I told him to keep quiet, and I don't know but what I told him I would kill him if he didn't keep quiet. What I said to him quieted him.

Testimony of Joseph F. Morley, for Plaintiff.

JOSEPH F. MORLEY, called on behalf of the United States, having been duly sworn, testified as follows:

I am a county detective for Klamath County, State of Oregon. In September, 1911, I was acting as guard for the sheriff. I saw the defendant at Klamath Falls at that time and was his guard at one time. We took him from the jail and kept him at a hotel. I was his guard at the hotel. I had a conversation with him while I was his guard. Mr. Lyman said he would like me to act as his agent and he would have some money sent me and I was to follow him from there to Portland and in that way he would have his money to use; he said he could get

(Testimony of Joseph F. Morley.)

access to his money through his attorney by me. He said he wanted to have the money sent to me and I was to take it to Portland and in that way his attorney would get access to it, and he said it [705] was just as well to give me some money and for me to give him an hour's time to get away. He named the amount of \$2,000; that he had \$500 with him that he would pay at that time. He was in my custody three days.

Cross-examination.

By Mr. SCHENCK.—I am not connected in any way with the sheriff's office at Klamath County. I was connected with the prosecuting attorney's office. I was not at that time and am not now, acting sheriff, nor have I had any connection with the sheriff's office of Klamath Falls outside of my line of duty with the prosecuting attorney's office. I served some papers. At different times in Klamath Falls I have been connected with the police force.

Q. Were you acting as a peace officer at any time, at the time you took charge of Lyman?

A. I don't remember. I had just returned a man to jail that we had at the hospital and I had been out with him quite a while, but I don't remember whether that appointment still held after Lyman left; probably not, because I was working for the United States Marshal in connection with Lyman. I have been sworn in as an officer at different times. I met him in the jail here at one time, I had been with a friend of mine to see sheriff Hammel, who is

(Testimony of Joseph F. Morley.)

an old acquaintance of mine and this friend asked Mr. Hammel if we could go through the jail and we went in and in going through I met Mr. Lyman. No one sent me there. I went of my own volition. I had a conversation with the defendant over there; it was a short conversation. I asked him how he felt or something of that kind, I can't tell exactly what the conversation was. It occurred about four weeks ago last Friday, about the 17th of October. [706]

Q. At that time and place, and as a matter of fact, in the Los Angeles County jail, on or about sometime in the latter part of the week—or about the 24th day of October and possibly within three or four days on either side of that, did you not have a conversation with this defendant in the county jail, in which you stated to him as follows, in substance: that you were down here to testify against him, but that if he, the defendant, would give you a hundred dollars, you would see that your testimony did not hurt him?

A. I did not.

Testimony of C. E. Webster, Recalled, for Plaintiff.

C. E. WEBSTER, recalled on behalf of the United States, having been previously sworn, testified as follows:

Q. When you were in Panama did you make any effort to locate Amiel?

A. I did, and I could get no trace of him whatever. I *made at* the Tivoli Hotel, where he stopped when he was there and at two other hotels, and also of the various people that I came in contact with that I had an idea might know of his whereabouts.

(Testimony of C. E. Webster.)

Q. Did you make an effort to locate E. J. Ryan?

A. Yes, sir; I located him on the 25th of September of this year.

Q. I show you United States Exhibit No. 222 for identification and I will ask you whether or not—it consists of some fourteen letters—you ever saw these before.

A. I cannot identify the particular letters; I saw some letters mailed in Panama in September, 1911. They were addressed to John Grant Lyman. I afterwards saw them in San Francisco on the 22d day of September, 1911. I received them from H. B. Hall, the inspector in charge at San Francisco. I took them to the Alameda County Jail to the gentleman in charge, I [707] don't know his name nor what his title is; I took them to the defendant in the Providence Hospital. I told Dr. Lyman I had these letters that I wished to deliver to him and in that statement I told him the conditions under which I would deliver them to him.

Q. What did you say?

A. That he was to open the letters and then return them to me before he had read them. He asked me what I would do if he did not comply with that, and I told him I would not deliver them to him, and he said that I could take them away, which I did.

Cross-examination.

By Mr. SCHENCK.—I was first in Panama on the 26th day of August, 1913. The postmarks on the letters showed that they were mailed in Panama in 1911. I first saw the letters in the office of the in-

(Testimony of C. E. Webster.)

spector in charge in San Francisco; that was probably a few days before the 22d of September, 1911, the day that they came into my possession. I offered to deliver them to the defendant at the Providence Hospital on the 22d day of September, 1911. Mr. Madeira was not with me.

Q. Do you know when Mr. Madeira (postoffice inspector) had the letters, whether before that or after that? A. I don't know.

Q. You simply told the defendant you had some letters and if he cared to open them and had them back to you without reading them, you would let him open them, but if he did not care to do that, he wouldn't get them? A. Yes, sir.

Q. And he wouldn't take them under these conditions? [708]

A. No, sir. That is practically all that was said and I took them away unopened. I turned them in to Mr. Hall and I saw them here in the office at room 408. I don't know who opened them.

Testimony of Charles K. Clark, for Plaintiff.

CHARLES K. CLARK, called on behalf of the United States, after being duly sworn, testified as follows:

My business is chief jailer of the Alameda County jail, and was so in 1911.

Q. I show you United States Exhibit No. 222, for identification, consisting of fourteen letters, addressed to John Grant Lyman, or J. G. Lyman, and I will ask you whether or not you ever saw them before?

(Testimony of Charles K. Clark.)

A. I identify all the envelopes, by reason of the initials on them, and the contents of all the envelopes,, excepting the ones containing the newspaper clippings. When I first received the envelopes, and letters at the Alameda County Jail, United States Exhibit 222, they were all sealed. After I received them I opened them and looked them over, and when I had done that I let Mr. Lyman read them. They brought Mr. Lyman down from upstairs and he looked over them. I believe he looked at the contents of every envelope; I am not certain. I gave him a chance to and told him to read them and answer them if he wanted to and after the examination that he made he handed them back to me and I returned them to Mr. Madeira, and I put my initials and date on there and Mr. Madeira did the same thing. I had an order from Dr. Lyman to open his mail at the time I received these letters.

Cross-examination.

(Mr. SCHENCK.)

Q. Where were you when you gave him these letters to read?

A. In the sheriff's office, just off the jail office; [709] nobody was there with me but Mr. Lyman.

Q. Where had you gotten the letters?

A. Mr. Madeira, the postoffice inspector gave them to me. I didn't have them in my possession more than fifteen minutes before Mr. Lyman read them. They were unopened when Mr. Madeira gave them to me; I can't remember whether I opened

(Testimony of Charles K. Clark.)

them in the presence of Mr. Madeira or not. I went away when Mr. Lyman was reading them and answering them. He answered one that I remember of.

Q. You say you had an order to open his mail?

A. Yes, sir; I am not certain what date it was that I got the order, but it was just after he came into the jail. Every prisoner that comes in must sign such an order.

Q. He can't get in without he does sign such an order.

A. His mail won't be delivered to him.

Q. You think you remember that Dr. Lyman had each and every one of those letters in his hands?

A. Well, he had the chance to have them in his hand. I told him to take the letters and read them and answer them if he wished to.

Q. Do you think that Dr. Lyman occupied nearly a half hour's time with those letters?

A. Yes, sir; it might have been more.

Q. You think the letters might have been out of Mr. Madeira's possession probably a half or three-quarters of an hour, or possibly an hour?

A. I should say about that as near as I can remember.

Q. You believe that if Mr. Madeira says under oath that [710] those letters were not out of his possession at any time more than five minutes, that he is mistaken, do you?

A. Yes; and I also believe that if Mr. Madeira says I took the letters, and went out in the jail and

(Testimony of Charles K. Clark.)

was back in five minutes, that he was also mistaken. I believe Dr. Lyman received some other letters stamped across the face of them "Fraudulent, return to writer," but I don't remember what they were; I don't know what became of them. I have not had the letters in my hand since October, 1911.

Testimony of C. E. Webster, Recalled, for Plaintiff.

C. E. WEBSTER, recalled for further cross-examination, testified as follows:

Q. (Mr. SCHENCK.) Did you find the fraud order against the Panama Development Company and its officers and agents as such?

A. Yes, sir. It is dated October 3, 1911. I don't know whether there was a fraud order preceding this one. When an order is issued the Postmaster General wires the postmaster at the office that is affected, and this order that I have follows by mail. The effect of the order is to withhold delivery of the mail addressed to that person.

Q. How about a fraud order on John Grant Lyman personally, was there one issued?

A. None that I know of, directly against Lyman's mail.

Testimony of John Miller Colon, for Plaintiff.

JOHN MILLER COLON, called on behalf of the United States, after being duly sworn, testified as follows:

My name is John Miller Colon. I live at Portland, Oregon and have lived there about a year and a half. I met the defendant in Rhyolite, Nevada

(Testimony of John Miller Colon.)

in the year of 1906. I knew him [711] in 1911 and had a transaction with him in reference to the Panama Development Company; that transaction occurred possibly in July or August of 1911. I saw the defendant in San Francisco in 1911 and at that time I had a conversation with him with reference to the conveyance of property in Riverside.

Q. What conversation did you have with him?

Mr. SCHENCK.—Objected to as immaterial. I take it, it is with reference to this Haldeman property, what disposition was made of it. That raises the old question again, like what happened to the automobile.

The COURT.—What is the pertinency of the testimony, Mr. Regan?

Mr. REGAN.—I understand the witness' testimony will be that Lyman told him he had a piece of property that he wanted to dispose of and wanted to put it in his name.

The COURT.—Showing his connection with the property? And, incidentally, with the Development Company?

Mr. REGAN.—Yes, sir.

The COURT.—The objection is overruled.

A. The general gist of the conversation was that the defendant owned a piece of property in Southern California; I couldn't swear to the location now, and that he wished to dispose of it; he was going away and would like me to take care of the disposal of it. That conversation occurred in September, 1911. Lyman told me he was going away, that was

(Testimony of John Miller Colon.)

probably two or three days prior to his arrest.

Q. What happened in reference to that transaction?

A. A deed was made out conveying the property to me, signed by the defendant. After the deed was made out the defendant put it in an envelope and mailed it to the County Recorder. [712]

Mr. REGAN.—The deed identified by the witness is a bargain and sale deed of date the 8th day of September, 1911, between John Grant Lyman, of the city of Los Angeles, County of Los Angeles, State of California, party of the first part, and J. Miller Colon, of the city and county of San Francisco, State of California, whereby the party of the first part, in consideration of \$7,000, the receipt of which is acknowledged, grants, bargains and sells the property—I won't stop to read the description, if you agree that it is a description of the Haldeman property—

Mr. SCHENCK.—I won't agree that it is a description of the Haldeman property, but that it was intended for it.

Mr. REGAN.—The description refers to the Haldeman property in Riverside in this state. It is signed, sealed and delivered by John Grant Lyman. Witness, M. Anderson and L. Van Orden.

Q. Now, at that time did you execute a mortgage?

A. Yes, sir.

Q. I show you this mortgage and ask you whether or not this was executed at the time?

A. Yes, sir; that is the mortgage of this property

(Testimony of John Miller Colon.)

which I had just received a conveyance of from Lyman.

Mr. REGAN.—The mortgage identified by the witness is dated the 8th day of September, 1911, given by J. Miller Colon of the city and county of San Francisco, mortgagor, of Alice M. Lehman, White Plains, Westchester County, State of New York, the mortgagee, and recites that the mortgagor mortgages the property known as the Haldeman property in Riverside to the mortgagee, Alice M. Lehman, as security for the the payment of a note one year after date. For value received I promise to pay Alice M. [713] Lehman of 63 Willow Avenue, White Plains, New York, the sum of \$5,500, interest at 7 per cent per annum, payable semi-annually. Signed J. Miller Colon. The mortgage is signed J. Miller Colon, seal. Witnessed by L. Van Orden. The same is acknowledged before Leander Van Orden, Notary Public, of the city and county of San Francisco, California.

Q. Did you ever pay Lyman anything for that property?

A. No, sir; nor did I receive any consideration for the mortgage which I executed. I don't remember that at the time I executed the mortgage, I also executed a note. After executing the mortgage I delivered it to the defendant.

Q. Did you see the defendant after he was arrested?

A. Yes, sir; I saw him in the United States Marshal's office. He sent for me and I had a conversa-

(Testimony of John Miller Colon.)

tion with him. The general intelligence of the remark was, that if there was a closed wagon on the ferry that morning he could have crawled into it and possibly have gotten away. The suggestion was made that I have a closed wagon or something of that order, but no place was mentioned at all, I did not agree to that. That conversation took place on the day of his arrest, or the day after his arrest. The defendant told me he received his injury by slipping in boarding a car.

Q. Did you have a conversation with him about what you saw in reference to his trying to escape?

A. Yes, sir; I saw it in the newspapers. The defendant said it wasn't true.

Q. Did you sell the Riverside property?

A. No, sir.

Cross-examination.

By Mr. SCHENCK.—I conveyed that Riverside property to some attorney in the Southern part of the state, I think their names were Pratt & Reach.
[714] *Reach.*

Q. Didn't you give him (Reach) a deed? This deed which you executed, or that was executed by John Grant Lyman to you, bears on the back of it the following: "For value received I hereby assign all right, title and interest in this instrument to Howard E. Reach. Signed J. Miller Colon." Is that the only paper you ever signed in favor of Reach?

A. No, sir. I also signed a deed to the property itself.

Q. How many papers did you sign?

(Testimony of John Miller Colon.)

A. I signed enough to get rid of the property and the mortgage and everything else.

Q. You gave everything you had over to Reach didn't you? A. You bet.

Q. Lyman told you he was trying to raise money for the Panama Development Company, didn't he?

A. I had no conversation about the Panama Development Co. He told me he was trying to raise money for that oil well. He said he was short of funds.

Q. Do you know police officer McDonnell?

A. Only since the last trial in San Francisco.

Q. Did Mr. McDonnell say that you were the man that was in the automobile that was going down Market Street at the time the defendant fell and broke his ankle?

A. Mr. McDonnell didn't tell me personally, he claimed to identify me in the office of the United States Marshal. I don't drive an automobile and I was not going down Market Street.

Q. Did Lyman tell you, with reference to that Hawaiian trip, that he was going there to get a sugar man to take charge of a sugar colony for the company?

A. He told me he was going over to raise money in Hawaii. I don't remember whether it was for the Panama Development Company, or for a Panama venture. [715]

**Testimony of Mrs. Ida Marie McDonald, for
Plaintiff.**

MRS. IDA MARIE McDONALD, called and sworn on behalf of the United States, testified as follows, upon direct examination by Mr. Regan:

I was defendant's employee in New York City about a year, from 1910 to 1911. The defendant then went away and I next heard from him when he came to California; he wrote me tellings of the possibilities out here and suggested that it might be a good thing for me to come out. I came out with the understanding that if I wanted a position while I was here that I could have it and I was here about two weeks when I started to go into business. I started in the office of the defendant in the Consolidated Realty Building, about the middle of June, 1911, and I continued my work there until about the last week of August the same year. During that period of time I lived at the home of the defendant at 2860 Hobart Boulevard; when the defendant left for San Francisco I followed about two days later.

Q. When did you first know that your name appeared as a director of the company?

A. When I saw the letterheads; my name appeared as treasurer of the company. I never acted in the capacity as treasurer, nor did I ever attend any director's meetings or stockholders' meetings. I did not vote on any proposition with reference to the company, nor did I ever sign any check as treasurer of the company. I had a conversation with the defendant as to why my name appeared as treasurer of

(Testimony of Mrs. Ida Marie McDonald.)

the company on the letterhead, and he answered me that it did not amount to anything and I should not worry, or think anything about it, and I never gave it another thought. I never had any conversation with the defendant as to why his name did not appear on the literature. [716]

Q. You never mentioned that to him?

A. Well, it was understood that he was not connected with the company. He told me he was not to be known as being connected with the company, because it would be better for clients to have some one to be referred to as having been down there and seen the land and he had been down there and he acted as a reference and the company could refer people to him, and if he was connected with the company he probably could not help them as much. During all the time that I first went to work for him in New York up to the time he left Los Angeles for San Francisco, in 1911, I never heard him say anything about having trouble with his wife or any divorce proceedings with her.

Q. From whom did you take most of your dictation?

A. From the defendant, I received instructions to leave his initials off the letters which he dictated to me.

Q. Did you take any dictation from anybody else?

A. Occasionally, some of the others in the Panama Development Company in their office at Mercantile Place. When I took letters from those at Mercantile Place I initialed them, indicating who dictated them.

(Testimony of Mrs. Ida Marie McDonald.)

Q. Did he dictate to you, any letters in reference to the Panama Development Company?

A. Yes, sir; they would be signed, "Panama Development Company, By ——." I never saw him sign any of those letters. After the letters were written, they would be taken to the other office to be signed. I have taken some over there at his direction. I also would receive instructions as to who should sign them. Mr. Smith sometimes, and Redpath sometimes.

Q. Did he ever dictate to you, any minutes of the meeting [717] of the Board of Directors of the Panama Development Company?

A. Once, I remember, at our home on Hobart Boulevard; he afterwards read them and made corrections.

Q. Who paid you your salary?

A. I was paid sometimes by Mr. Redpath and the money would be left in the office when I would call for it. Sometimes I would go over to the Panama Development Company on Mercantile Place for my money, and sometimes it would be brought over to me. I wrote U. S. Exhibit No. 200 at the dictation of the defendant.

Q. Before the defendant left for San Francisco, what did he do with the things he had in the house?

A. He packed everything. I don't know how many trunks there were.

Q. Do you know Mr. Byrd?

A. Yes, sir; he and his wife came out to the house the day after Lyman left. I never heard any con-

(Testimony of Mrs. Ida Marie McDonald.)

versation between Byrd and Lyman after Byrd came out there. Lyman told me that Byrd was coming out there so that the house would not be left alone. I have seen the defendant write out newspaper advertisements with reference to the Panama Development Company himself in long hand.

Mr. SCHENCK.—No cross-examination.

Testimony of Irving Dingle, for Plaintiff.

IRVING DINGLE, called and sworn on behalf of the United States, upon direct examination by Mr. Regan, testified as follows:

I am a Deputy United States Marshal. I had a conversation with the defendant when he came down from the north, I don't remember when it was. [718] I brought Lyman from the jail to your office. He said he would like to talk it over with the district attorney and upon that being mentioned I brought him over to your office. He came into your office and you said to him, "Do you want to see me Mr. Lyman," and he said, "I came to talk this matter over."

Q. Was anything said about carrying out contracts and paying the money back?

A. That was in the conversation, but I don't remember how it came to that part, that he wanted to settle up his contracts as he had started out in the beginning to do.

Q. The Doctor said that?

A. Yes, sir; and you said you could not talk to him about settling up any contract but that you would talk to him about a plea of guilty. The Doctor

(Testimony of Irving Dingle.)

said he couldn't consider that and the conversation was then ended. The Doctor said he wanted to carry out the contracts that these people entered into and you asked him if he would pay back the money to the people who had purchased these lands and he said he would not, as that would be an indication of his guilt.

Q. And didn't I say, "You and I cannot discuss it. You and I will have to assume your guilt if you talk to me"?

A. Something like that; I can't say exactly. Then I took him back to the jail.

Q. Were you ever instructed to say to the defendant that if he would plead guilty, the office would recommend leniency?

A. No, sir; I talked to Dr. Lyman several times about entering a plea of guilty. Dr. Lyman said that he would plead guilty, with the understanding that he would be fined a dollar and one day. In these conversations I never represented the United States District Attorney's office whatever, what I did, [719] I did on my own free will.

Cross-examination.

(By Mr. SCHENCK.)

Q. I guess the last conversation you had about it was when you and I and the defendant were out here in the hall.

A. No; I think we had one after that. I think the last one was just before the trial began, over in jail.

Q. Well, you remember in that conversation the

(Testimony of Irving Dingle.)

defendant said that while he was not guilty in his own opinion, still, if he could be fined a dollar and *and* imprisoned one day, he would rather do that than to cause all the trouble of a trial, even if it did put a stigma upon him, that he thought rightfully ought not to be there?

A. I don't remember that there was anything said about it, even at that time; there may have been. I don't remember it, but I do remember that we talked at the head of the steps and at that time I said it would be better for him to plead guilty and get out of this as easy as he could than to stand trial and be convicted anyway.

Q. Did I not say to him, that I had been appointed by this Honorable Court, and that if I even intimated how I felt, whether it was better for him or worse for him, that they might think, and the public might think and his Honor might think, that I was trying to influence him one way or the other to save myself from a whole lot of work, for which I would not get anything but thanks? Didn't I tell him that?

A. Yes; and you (Mr. Schenck) represented to him that you would not indicate to him for a minute which way he should do for fear some one might think you got out of a big job for which you wouldn't get a nickel. [720]

Testimony of Raymond Gray, for Plaintiff.

RAYMOND GRAY, recalled on behalf of the United States, having been previously sworn, upon direct examination by Mr. Regan testified as follows:

Q. I show you United States Exhibit No. 6 and

(Testimony of Raymond Gray.)

ask you whether or not that is also one of the documents you received from Mr. Madeira?

A. I also received Exhibits Nos. 2, 6, 16, 20, 24, 31, 34, and 37, from Mr. Madeira, and the minute-book, United States Exhibit No. 74 was received by you from Mr. Reach.

**Testimony of John Grant Lyman, on His Own
Behalf.**

JOHN GRANT LYMAN, the defendant herein, called and sworn on his own behalf, testified as follows:

I was born in Auburn, New York, and am forty-eight years old. I attended the public schools in New York as a small boy, and in my youth I went to St. John Military School, and attended the New York Homeopath Medical College and Hospital, and was graduated from that institution in 1891, with a degree of Doctor of Medicine. I was licensed to practice in the State of New York and did practice there. Shortly after my graduation I was married and located in Rochester, N. Y., where I practiced general medicine, and while in Rochester I invented a small instrument called the auriphone to aid the deaf; and shortly after that I went to Vienna and studied under Gruber for about six months. In 1892 I went to Chicago and practiced medicine and organized a small company to handle the auriphone. From Chicago I went to New York and organized a larger company to manufacture the same thing. I went to Europe in 1893 to form an auriphone company in England, and did so. I met Mr. Herbert H. Gladstone, who was a nephew of the Right Honorable

(Testimony of John Grant Lyman.)

[721] William E. Gladstone, who was then Prime Minister of England, and Mr. Gladstone helped me form an auriphone company. It was a small company; what might be termed a private company. The English Auriphone Company was successful and I cleared something like a hundred thousand dollars that year. I maintained an office continuously in London for fifteen to possibly seventeen years. From the year of 1894 up to approximately the time of my arrest here, my business has been promoting and investments. I went to British Columbia on several trips and developed a number of Kootenai properties. One year I made \$400,000 in about thirty days in connection with one of those propositions. I lived at the Waldorf three years and then leased a house from Hyde, the insurance man, and in '99 I bought No. 92 Sixty-third Street, New York, house and contents for \$200,000. I had a private stable on the same street that I paid \$75,000 for. Mr. William A. Moore had a stable on one side of me and Mr. Harriman of the Union Pacific on the the other side, and they were high-class stables. From 1894 to 1900 my expenses averaged \$1,000 a day. I made profits exceeding \$100,000 a year. I have promoted either wholly or in part a thousand companies, the capitalization of which would exceed \$1,000,000 each. Some were larger, some smaller. I was in business actively in London up to the day of my arrest, and never had a lawsuit over anything that I promoted all the time that I was in business. In 1901 I bought a seat on the New York Stock Ex-

(Testimony of John Grant Lyman.)

change and then began to speculate heavily. On May 9, 1901, I lost five hundred thousand dollars, at the time of the Northern Pacific Panic and that put me out of business. I kept my seat on the Stock Exchange for five or six months after that. I was first attracted to Panama in 1910. I had [722] gone to Cuba and I met Victor Morrow. He was a sugar expert, and I was getting at plantations and what they could be purchased for, and the percentage of sugar in the cane, and yield per acre, etc. Victor Morrow told me he had been to the district of Agua Dulce, where, in his opinion, while it was not as good sugar land as some of the others, the Government had granted an important concession there for a sugar-mill and that he believed it would be very easy to establish a plantation there, particularly as there was a lot of Government land available which could be had at a nominal price, and there were some Spanish grants there and he had an option on one of two thousand hectares. He also said he was back of Montijo Bay and found from sixteen to twenty thousand acres covered with fine timber, that would make an ideal plantation; that he believed a tramway could be put in which would permit the timber to be removed and the cost of developing would not amount to anything. The objection to that particular district was that there was nobody living there; but, as a sugar proposition, it looked ideal, and there was water transportation. And also at Agua Dulce where the railroad was surveyed up through there there would be people. But, independent of that, there

(Testimony of John Grant Lyman.)

was plenty of water for any boat at high tide. These conversations took place in Cuba and I entered into an arrangement to take his option contract, which I took over in the name of Pollinger.

Q. And after your conversation with Victor Morrow, did you make any other investigations about Panama and its resources?

A. I had been in New York for a day or two and I saw what purported to be an interview with Dr. Albert Hale, who was said to be the special commissioner sent by the United [723] States to investigate the possibilities of tropical agriculture and trade conditions, with a view to presenting the same to the Pan-American Union. I afterwards met Dr. Hale and had a conversation with him, at the building of the Pan-American Union in Washington, D. C. I think it was in either November or December of the year 1910 or January, 1911. I told Dr. Hale that I had been to Cuba and saw Victor Morrow, and told him that he was an expert and had been over the western coast of Panama and that he had been to the district of Agua Dulce and thought it would be a very good district, and that he had been around Montijo Bay and found what he thought would be an ideal site for a plantation there; that it was covered with heavy timber, but it could be taken off with a gravity tram so that the development of the plantation would show a profit rather than a loss. I asked him what he knew about the country and he said he had been over it from one end to the other for the United States Government,

(Testimony of John Grant Lyman.)

and that was a very good district; that the Panamanian Government had granted an important concession for a sugar-mill and had waived all the duties on machinery, I think for three or ten years, I have forgotten which, and a railroad was to be surveyed through there and that the surveys were filed in the War Department, and that he would be able to obtain these for me, although it was something that was not supposed to be given out. Dr. Hale showed every wish to aid me and he said he would do so; that was what the Pan-American Bureau was for,—to furnish accurate information regarding agriculture and trade possibilities in Panama.

Q. How long were you with Dr. Hale?

A. I went to Washington once to see him, and he came to New York once as my guest. I also spoke to him about this Montijo Bay District and what he knew about it, and he said [724] there was very good timber in all the provinces and he had a lot of photographs which he said if I would get the “American Lumberman,” I would be able to see, and it had a complete list of all the timber found in Panama, which was found in every district, and he told me that this “American Lumberman” was published by some Milwaukee concern which was going to operate in Darien, which was in the eastern part of Panama; he also spoke of Chiriqui, and particularly the land up around the Costa Rican border, as being very desirable citrus fruit land, and that was probably one of the finest provinces in Panama; that while the country was very difficult of access at the moment the

(Testimony of John Grant Lyman.)

building of the railroad would change all that and the opening of the Canal would give water transportation between the various ports and undoubtedly it would fill up, as it was a very fine agricultural district, and up around Boquete they grew very fine coffee, equal to the very finest Java, worth 15 cents a pound in Panama. He told me that the Government had recently thrown lands open to the public. That is, to all nationalities, on the same terms as heretofore granted to Panamanians, and the Government was very liberal in its construction as to what was required in the way of development. If you showed a desire to open up the country or bring in colonists, they would unquestionably give every aid and strongly advised me to go down and look over the field myself, and he would give me letters of introduction to some prominent people in Panama, and he believed if I did go that I would become thoroughly interested, as his experience in tropical countries had led him to believe that Panama presented greater opportunities than any other place in the world, the sugar cane giving a higher amount of saccharine than any where else, and reproducing itself for twenty-five years. [725]

Dr. Hale gave me a letter to Senor Guardia—Santiago Guardia—who was Attorney General of Panama. Also a letter to a Mr. Smith who was in charge of all of the Y. M. C. A. Stations in Panama, which is a very important post, and who comes in contact with everybody in Panama. My impression was that in the letter to Guardia it was stated briefly

(Testimony of John Grant Lyman.)

what I came to Panama for; that I wished to interest myself in tropical agriculture and take up Government land and develop a sugar plantation. That was really what I had in mind—developing a sugar plantation, or, in fact, several of them, and also tropical products, such as cocoanuts and bananas. They grow bananas in Panama at six cents a bunch. I was informed that there were Government lands along the entire proposed road from Panama to the city of David, and that out of the 7,000 square miles in Panama very little had ever been in use; that it was a virgin country; that the natives only cultivated a very small tract. Dr. Hale told me that the native Panamanians were very much averse to work and the country was so fertile and their wants so few, that they only required a small amount of ground, and their wives did all the work.

Q. When was it that you went to Panama?

A. I think it *would* the last of February, or the first of March, 1911. I went down to Cuba twice to see Mr. Morrow to look into the sugar situation. Dr. Hale advised me to read the bulletins of the Pan-American Union, and described the same as official documents of the United States Government, and that anything I found there was absolutely correct, and that I could rely upon it. He also said he would supply me with a map of the proposed road and would have the survey marked on the same from the official surveys filed with the War Department.

[726]

Q. In any of those conversations did Dr. Hale say

(Testimony of John Grant Lyman.)

anything to you about what the Pan-American Union was, or what his connection with it was?

A. He was an official of that concern, and that the object of it was to distribute correct information of the trade possibilities and agricultural possibilities of all the South American Republics. My first letter to Hale was merely a request to know if an article I saw in some newspaper or magazine was correct. I don't think I kept a copy of it.

Q. Prior to your going to Panama, had you read any literature on Panama?

A. I read Forbes Lindsay's book. Dr. Hale said that Mr. Lindsay had been to Panama as a representative of the Government and his statements were quite correct. I also read some other books. I read the Pan-American bulletins as far back as August, 1899.

Q. Do you know where those books are now that you read?

A. I do not. I think practically every one,—not the ones I had, but similar ones—were in the Panama Development Company's offices here.

Q. After you came back from Panama, did you have some correspondence with Dr. Hale?

A. I did; I think from Los Angeles. I might have written from New Orleans. When I came back from Panama, I came direct to Los Angeles. While in Panama I went to Colon and the city of Panama, which is Ancon on the American section, and then I rode out from the Empire to some ranch to see the country and character of the improvements. When I

(Testimony of John Grant Lyman.)

went to Panama, I first had an interview with Mr. Smith, his bureau was at Gatun, if I remember rightly; that is not the L. R. Smith mentioned in this case. [727]

Gatun is eight miles from Colon on the Atlantic side, and I saw him and then I went on to the city of Panama and saw Mr. Santiago de la Guardia.

Q. Did you have any conversation with Mr. Smith with reference to the resources or possibilities of Panama?

A. I did, but not exhaustive at all. What I was anxious to get Mr. Smith for, was someone to represent me down there if I found that I liked the looks of things. Mr. Smith said that his position, which was practically a Government position, did not permit him to do anything, but he would be glad to help me in any way he could. I also told him I had letters to Santiago de la Guardia, and he said he would be a very much better man and could help me; that he was connected with the Government and might be the future president, and that politics played a very strong part down there in any concession that might be desired, and that I had better cultivate him.

Q. Did you go to Santiago de la Guardia?

A. I did. If I remember right, I arrived in the city of Panama on the six o'clock train in the afternoon and the next morning early I was at his office; that was sometime early in March, I can't give you the date.

Q. Who was present when you presented your letter of identification?

(Testimony of John Grant Lyman.)

A. There were several clerks in his office, one of them was afterwards made known to me as Hernan de la Guardia, his son, and Mr. Guardia's knowledge of English was very limited and my knowledge of Spanish was nil, and we did not get on famously and he called in his son to translate.

A. I told Mr. Guardia I had very favorable reports regarding the possibilities of tropical agriculture in Panama [728] that Government land to the extent of several millions of acres had been thrown open to all persons as well as Panamanians, and at Dr. Hale's suggestion I had come down to look it over and find out at first hand, if possible, if the reports I had received were correct; that I would like to have some representative on the ground, in case I became interested, who would advise me and see that I got good land, and that everything was in conformity with the laws of Panama; and I asked him if he would not act for me; that the matter of compensation would be left largely to him. And he told me that his son would be much better qualified to act; that owing to his own governmental duties that he could not attend to it, that his son had taken two courses in agriculture in America and was an agricultural expert and he would be very glad to aid in every way possible, because the development would be for the benefit of the country. And I spoke of the very high percentage of sugar found in the cane there, and I asked him if the figures were correct and he said that they were; I spoke particularly about the cane reproducing itself for from ten to twenty-five

(Testimony of John Grant Lyman.)

years; that it was to me an unheard of thing; and he said it was quite true. I was very much interested after hearing that, because the country was totally undeveloped and there was only here and there a clearing, and the population around there was practically nil, and that the Government would look with the greatest leniency upon any claims put forward in the way of cultivation. He told me the laws in regard to fencing, and he told me they used an obeit tree which they stuck in the ground and it grows up without cultivation, and one strand of wire which cost a cent a foot or a cent a yard, and that that was all that was required; that the Government [729] was anxious to have the country developed, and to that extent they would be very lenient in what they required in the way of fencing, and also the raising of trocha. Around every town there was certain public grazing land or savannahs which could not be taken up, but they constitute a very small plot of the whole; that there was practically public land from one end of the Republic to the other east and west, which could be had practically for the asking.

Q. Had you up to the time you arrived there, or, even up to the time you left Panama, arrived at any definite conclusion in your own mind as to just exactly what means you would take or methods you would use in the exploitation of Panamanian land?

A. I had not. I had several conversations with Hernan de la Guardia when his father was not present. He came up to the hotel and spent the evening with me; and I went over to Tobago, or some such is-

(Testimony of John Grant Lyman.)

land. I was around in a boat for several days in the Panamanian harbor there. The substance of my conversations was, that he would be willing to act for me there as my representative in case I should desire to take up either Government or other lands, either for development—either sugar plantations or the sale of Panamanian Government lands and he acting as agent, and the method would be decided when I got back to the United States, as to just what I should do down there. I believe I had some options, or had them under consideration, on some Spanish land grants. I do not recall whether I told him the locality and the acreage or not, but I am quite confident that I mentioned them to him in a general way. I talked to him about taking up Government land [730] the same as was done in the United States, and I would want him to act as my representative down there, to see that the formalities required with the Government were carried out, and to see that the business was conducted in the best possible manner. I thought I was better posted on localities than he was. He had never been up through the country, and Victor Morrow the expert had been, and Dr. Hale had been, and I had all the data that they gave me and I only asked in a general way to get his confirmation of what these men had told me. I asked, for example, in regard to the sugar mill at Agua Dulce, and he said the concession had been granted. He said to me he had a friend or relative, I don't know which, connected with the Bureau of Fomento, and that he would be able to get the most desirable

(Testimony of John Grant Lyman.)

land, and we might have to give a little something for that; but we could get good land all through the Republic; and he spoke about this railroad which would soon be built; that the company was about to advertise for bids and did advertise for bids.

Q. When was it in the course of your negotiations that you saw Mr. Quelquejeu?

A. If my recollection serves me, it was the very time that I saw Mr. Guardia. I think Mr. Hernan de la Guardia was with me, but he had nothing to say, he turned me over to Mr. Quelquejeu and I did all the talking. Mr. Quelquejeu spoke English perfectly. He said that he was born in David, in the province of Chiriqui, and knew the country well, and that it had wonderful agricultural possibilities; that there was no finer sugar and in the world and all it needed was development and a market; that if they completed the Canal they would have a market, and he thought it would be a fine thing for the country to introduce a colony down there, and *to* take up this Government land and develop it along the lines I outlined to him.

[731]

He also said he was going to Europe shortly, and I asked him if he would help me and give me the benefit of his advice. He said that he would be very glad to do it; that he was going to Europe for a short trip, but on his return he would give it all the time he could.

Q. While you were down in Panama was anything said by you or by anyone else to you with reference to an Advisory Board, or was that afterwards?

(Testimony of John Grant Lyman.)

A. Well, I don't think the words "Advisory Board" were used. I said if I operated down there and Mr. Hernan de la Guardia would act for me, I wanted someone to advise him so that I would be absolutely sure that titles would be correct and that the business was in conformity with the laws of the Republic. I said this to Senor de la Guardia, to Mr. Quelquejeu and also to Hernan de la Guardia and they expressed the idea that that was an excellent idea, and both of them said they would aid me in every way possible. There was no compensation offered them, or was any sum offered, although I did say in a general way that whatever services they rendered would be paid for.

Q. Did Mr. Hernan de la Guardia or his father state to you at any time whether or not Hernan de la Guardia had any governmental position or employment.

A. My understanding was that Hernan de la Guardia held the position of Procurador del Distrito, which was equivalent to District Attorney of that District. That is what I gathered from him, that he occupied that legal position there. I might have misunderstood him. I also saw and talked to Mr. Madero and several Chinese merchants. The merchants have practically the entire trade at Panama and there are some very [732] capable business men, and they have also some contracting business. I found that I could have those lands put in cane for \$15 or \$20 by Chinese coolies. My primary object in going to Panama was to look up land with a view to

(Testimony of John Grant Lyman.)

promoting sugar companies in England; not only sugar companies, but cocoanuts and copra and bananas and all tropical products. I surely was not there more than three weeks, and I think it was two, and I came directly here, stopping over, as I say, on the road out here for a few hours here and there.

Q. Up to this time had you met L. R. Smith or Redpath, or any of the other men who have been mentioned here in connection with the Panama Development Company?

A. I had not. I formulated my plan coming back on the boat. I decided if I got proper representatives in Panama, that I would organize a company here for the purpose of taking up Government lands under power of attorney, and sell the lands at a profit, and develop such an amount of them as would attract colonists there, and, pending this, to endeavor to establish a small colony there which would serve the double purpose of enabling me to show abroad that Americans were interested in Panama and had a financial stake there, which would make it very much easier to float the sugar plantation scheme. So I came here and either organized or caused to be organized the Panama Development Company for the purpose of taking up Government land under power of attorney and the contract itself shows what that scheme was.

My impression is that I wrote Dr. Hale first from New Orleans. I am not certain. At any rate, I wrote very early after my return. This is a copy of a let-

(Testimony of John Grant Lyman.)

ter that I wrote to Dr. Hale, I sent the original to Dr. Hale. [733]

The letter dated Washington, D. C., April 27th, 1911, is the answer I received to my letter to Dr. Hale.

(The said letters *to identified* are marked respectively Defendant's Exhibit "K" and Defendant's Exhibit "L," are read in evidence, and the following are copies thereof:)

**Defendant's Exhibit "K"—Letter, April 21, 1911,
to Hale.**

"April 21, 1911.

Dr. Albert Hale,

Bureau of American Republics,

Washington, D. C.

My dear Doctor:

I have just wired you as follows:

In review Number Bulletin American republics issued August last appeared small map showing route of proposed railroad from City of Panama to David. Can you obtain large copy of that map for me? Also map of Panama and Canal Zone showing work on same? Will gladly pay for these. Answer collect Alexandria Hotel.

which I beg to confirm. I am extremely anxious to obtain these maps and hope you will be able to obtain the same for me. If you cannot get large ones, then perhaps some small ones would do, and these I could have enlarged by a local map maker.

While on the Isthmus, I saw a large profile map of the Panama Canal, showing the amount of excavating done by the French, that already done by the Americans and that which it is proposed to do. Could you obtain me a large copy of this?

It's impossible to buy a good map of Panama here, but there must be some complete maps of Panama in Washington, and if you can only put me in touch with the right people so that I may obtain these, it will be greatly appreciated.

I enjoyed my visit to Panama very much indeed and believe that Chiriqui country has a great future before it, for with the opening of the Panama Canal and the increased transit facilities the railroad will provide, there will be unquestionably a great development.

Thanking you in anticipation of receiving the favors desired, and with warm personal regards, believe me,

Very truly yours,

P. S.—If you have any recent data on any developments pertaining to Panama or photographs of the country, would be glad to obtain the same.”

[Endorsement] : 672—Crim. U. S. vs. Lyman. Defs. Exh. “K.” Filed Nov. 26, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy.

**Defendant's Exhibit "L"—Letter, April 27, 1911,
Hale to Lyman.**

"PAN-AMERICAN UNION,

Washington, D. C., April 27, 1911.

Dear Dr. Lyman.

Your telegram from Los Angeles of April 21, 1911, was received and answered by me to the effect that a map of the Canal Zone would be sent to you at once, but that a map of the Republic of Panama was not [734] immediately available; that, if you wished, I would do what I could to secure such a map, with a line of the projected railway between Panama City and David.

Meanwhile I have obtained a large map of Panama, and some details about that railway. I can have the line drawn on the map, if you still desire it, but this will cost a very moderate sum (not to exceed \$10.00) depending upon the amount of detail deemed advisable. If you authorize me to proceed, I will do so, if you prefer I will forward the large map just as it is, with no alterations or additions.

Your letter of the same date as the telegram, came yesterday, and I am glad to hear that you enjoyed your visit to Panama. The Library is receiving almost every day new data about that country, and additional photographs, but the gist of the news appears in the Monthly Bulletin, and I suppose you read that, regularly. You should get the latest book by Forbes

(Testimony of John Grant Lyman.)

Lindsay, on 'Panama and the Canal To-day.'
(Boston, L. C. Page and Company, \$3.00.)

Lindsay has another book in press, and both of them discuss just those questions that interest you so much.

Let me know if I can do anything more for you, but as I am not sure what your address will be, I hesitate to go further, at present.

Sincerely yours,

ALBERT HALE,
Special Compiler.

Dr. J. G. Lyman,

C/ Hotel Alexandria,

Los Angeles, California."

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defs. Exh. "L." Filed Nov. 26, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy.

The WITNESS.—The document you show me sent to Dr. Hale by me and signed by me. I think it was written from the Alexandria Hotel.

(The said letter is marked Defendant's Exhibit "M," is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "M"—Letter, April 24, 1911,
—— to Hale.**

"April 24, 1911.

Dr. Albert Hale,

Washington, D. C.

Internat'l. Bureau of American Republics.

My dear Doctor Hale: [735]

Thanks for your wire regarding map. The exact

(Testimony of John Grant Lyman.)

specifications of the new railway to David, while desirable, are not necessary, and if I could obtain a large map made from the plate of that one appearing in the August Review of the Bulletin, that would be sufficient, or failing in that, then a large map of Panama might do, as I know the general direction of the road pretty well. Please accept my sincere thanks for the newest map of the Canal Zone which you advise me the Isthmian Canal Commission will send.

Sorry you are not out here enjoying the lovely climate and the many other attractions which go to make Southern California famous. Really, I think this one of the finest towns in the whole world. Again with sincere regards and thanks,

Very truly yours,

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defs. Exh. "M." Filed Nov. 26, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

Q. (By Mr. SCHENCK.) Do you remember receiving any reply to that?

A. I did. I sent to Dr. Hale, the original of that letter, you show me.

(The said letter is marked Defendant's Exhibit "N," is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "N"—Letter, May 2, 1911, —
to Hale.**

"May 2, 1911.

Dr. Albert Hale,
Pan-American Union,
Washington, D. C.

My dear Doctor:

Have just telegraphed you as follows:

Please have railway line drawn on large map of Panama as per suggestion in your kind letter April 27th. Am remitting ten dollars. If you can send me flag and coat-of-arms of Panama in color such as appeared of Haiti in January Bulletin would be greatly appreciated.

which I beg to confirm.

Shall be very glad indeed to receive that large map of Panama with the line of the projected railroad from Panama City to David. I received the map of the Canal Zone, for which please accept my sincere thanks.

I would like, if possible, to obtain in color, a picture of the Flag of Panama, likewise its coat-of-arms, which I am inclined to believe has appeared in some of the bulletins, although do not know which one, and hope you will be able to send me this.

Yes, indeed, I read the Monthly Bulletin regularly and have also read Mr. Lindsay's book, which is a very good one indeed.

There is no doubt in my mind but that the Province of Chiriqui is about the richest agricultural region in the whole world, and presents possibilities

in that line unequaled in any [736] country. On the Costa Rican border particularly, there is some citrus fruit land, where the very finest of oranges grow and ripen early in December, which means the highest possible price, as they can be gotten to market before the California fruit is ripe. With a friend of mine here who is an expert in the culture of oranges, we are going to put 100 acres down there, and expect to have a grove which will be on a paying basis by the time the Canal is opened. As I feel that the opportunities down there were called to my attention largely through you, with your permission I am going to have put five acres of oranges in for you, and present the same to you with my compliments.

As it is possible to bring in contract labor there, there is no reason why almost any tropical fruit or plant could not be raised at a great profit, for with the building of the railroad and opening of the Canal the markets of the whole world will be open at your door, and I expect to see within the next few years, a tremendous development in that region.

We expect to be able to interest some good people who have the ability and necessary funds to work with, to join with us in developing some of the most profitable industries there, among which may also be mentioned sugar cane. Never in my life have I seen such cane as that grown in *Pananama*, and it is as certain as anything can be that this is going to prove a very profitable industry when planted on a large scale and mills are erected to grind the same. All that the country wants now is capital and intelligent

(Testimony of John Grant Lyman.)

labor to develop it. With this combination the results there will excel anything to be found even in this *wonderfu* country. Of the many good opportunities, I saw, citrus fruit and growing of sugar cane appealed to me most, as I found oranges there that were simply perfection even though they were not cultivated to any extent, and I believe if they were given some of the care shown in Southern California, and some of those delicious specimens grown in Brazil which are unknown in the U. S. A., that here would be an opportunity to develop something which would be of great value to the world now that it is going to be possible to ship these to almost any point desired.

Will keep you fully posted of our efforts down there and can see no reason why we should not achieve great success, from which not only we shall benefit financially, but will be of decided benefit to Panama as well.

Again with many thanks for your kind letter,
Sincerely yours,"

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defs. Exh. "N." Filed Nov. 26, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

Mr. SCHENCK.—I offer in evidence at this time, the answer to Defendant's Exhibit "N."

(The said letter is marked Defendant's Exhibit "O," is read in evidence and the following is a copy thereof:) [737]

**Defendant's Exhibit "O"—Letter, May 9, 1911,
Hale to Lyman.**

Washington, D. C., May 9, 1911.

Dear Dr. Lyman:

Your good letter of May 2, 1911, came yesterday, with the enclosed check of \$10.00, but in accordance with the telegram of your same date I had already arranged for the drawing of the line of railway in the map of the Republic of Panama, and I hope to be able to forward it to you today by registered mail. The coat-of-arms of the Republic of Panama is now in the hands of the lithographer, and will be, so it is hoped, ready within this month; it is possible that I may obtain an advance print for you, but if not, it will appear in some future number of the Bulletin, so you are sure of it, in any case. This applies also to the Flag of that nation, for the two are always prepared at the same time.

Your statement about the proposed orange grove in the Province of Chiriqui touched me deeper than you can suspect or imagine. Indeed I will accept with sincere gratefulness your gift, and do all in my power to further your scheme. Not that I wish you to suppose that I consider my few words of advice needed any such token of generosity on your part, but because much of my earlier history is connected with orange growing, and perhaps out of what was a greater disaster in my life, may result thus unexpectedly, a benefit for the future. My father and myself were largely interested in an orange grove of proved worth in Florida, when I was a young

(Testimony of John Grant Lyman.)

man, and I then knew the business from seed to salesman, but the severe freeze in 1895 killed not only our crop on the trees (late in December) but entirely destroyed the trees themselves, and since then I have not seen the grove nor followed orange culture, but I know conditions from Brazil and Paraguay to California. As you think, the proposition is a good one, and carefully nursed, will yield its substantial profit for those who go into it. But I know a great deal too about estates, etc., in the tropics, and would warn you against too much publicity in the matter—a detail which, however, I would rather discuss with you when your scheme is more advanced and we may get together for a longer talk. There are numerous photographs of Panama in the Library here, but none very recent or which I think you would want; if you give me an idea of the character of Photograph preferred, I will try to make a secection for you.

Cordially and gratefully yours,

ALBERT HALE.

Dr. John G. Lyman, C Hotel Alexandria, Los Angeles, California.

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defs. Ech. "O." Filed Nov. 28, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

The WITNESS.—Yes, sir; I dictated that carbon letter, signed it and sent it through the mail.

(The said carbon letter is marked Defendant's Exhibit "P," is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "P"—Letter, May 15, 1911,
—— to Hale.**

May 15, 1911.

Dr. Albert Hale,
Pan American Union,
Washington, D. C.

My dear Doctor: [738]

Your very welcome letter under date of May 9th just at hand; also the map showing the line of the new railway for which please accept my very best thanks.

Regarding the coat of Arms, in color, as well as the flag of the Nationa, I hope you will be able to obtain a press-proof of same, as it may be a number of months before it appears in the BULLETIN.

Now, as to our plans in the Province of Chiriqui. I am associated with one of the best *posteds* on the growing of citrus fruits, there is in California, and it is our idea to first off, start a small grove, and then if the results are satisfactory, to *explant*.

We have no intention of selling orange groves, or being the means of sending a lot of people down there at the present time, for my own opinion is that to do this would result in great disappointment in many instances, whereas, if we carry out our plans as laid out, the results should prove beneficial all around.

All we desire to do now, is to interest some desirable people in Chiriqui, to the extent of their purchasing some of the Government land, and then we would arrange to develop a very small part of it,

in connection *with* our own, this work to be paid for after the grove is in bearing, or well under way, as we think when transportation facilities are afforded, there will be a great rush down in that direction, and if the parties who have interests there in lands, can actually see what the results of cultivation are, they are likely to become sufficiently interested to warrant them in remaining there.

My friend wants to try out there an orange grown in Brazil, which, he states, is a remarkably fine one, but which has never been shipped out of that country to any extent, yet he believes it would do well in Panama. There is not the slightest doubt but that oranges, and in fact all citrus fruits, thrive remarkably well there, and as they ripen unusually early, and are ready for the market November 1st, with the completion of

Dr. Albert Hale——#2

the railroad and opening of the Canal, it will be possible to get this fruit to the market at the time it will command the very highest price.

The, writer too, is particularly interested in the possibilities of sugar, which matter I have gone into very carefully, and it is certain as anything can be, that the time is not far distant when Panama will be a great sugar-producing country, as the cane holds a remarkable amount of saccharine—far more than is found in any other cane—and about twice as much as in Cuban cane. As, after once planted, it will reproduce itself continuously for years, there is here a combination of conditions which will mean very large profits when handled on a proper scale.

Of course one must have a lot of land in sugar cane, or you could not afford to put up a large mill, but it is easy enough to get the mill if you have the land in cane, and as it is possible in Panama to bring in contract labor, that very important feature can be successfully met, and in a way most advantageous, when considering the difficulties experienced with labor in Cuba, yet, with all their high-priced labor, you may be interested to know that on the Chapara Plantation, which is *largely* owned by Congressman Hawley, *when* you doubtless know, they are producing sugar at a cost of seven eighths of a cent a pound, and their labor costs are away above what they will be in Panama. [739]

Personally, I *dod* not think there is the slightest doubt but that sugar can be produced in Panama at a lower cost than any other point in the world, and all it needs is men of experience, backed by ample capital, and I think we have both. At all events, we are going through with this, and if experts cannot make a success of it, surely no one else could hope to.

If you can see any "holes" in our proposition, would be very glad, indeed, to have you suggest what they are, as we are very much in earnest, and are endeavoring to go about it in the very best possible manner. Of course, we count on other people's developments increasing the value of our own lands, as well as theirs, and as the Government requires cultivation in order to hold the same, it means that the whole country

Dr. Albert Hale——#3.

will be filled up as the lands are cleared and cultivated.

(Testimony of John Grant Lyman.)

Regarding the pictures; anything you can send me of Panama will be acceptable, as we would like to hang them up in our office, to give some idea as to how things look down there at the present time. When we get any part under cultivation, we will show that, and then one will be able to form some idea of how it looks before and after.

With many and sincere regards, I remain,

Very cordially yours,

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defs. Exh. "P." Filed Nov. 28, 1913. By Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

The WITNESS.—I received that letter through the mail in answer to the other letter.

(The said letter is marked Defendant's Exhibit "Q," is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "Q"—Letter, May 27, 1911,
Hale to Lyman.**

(Letterhead of Pan American Union.)

Washington, D. C., May 27, 1911.

Dear Dr. Lyman:

Your very interesting letter of May 15th, 1911, was duly received, and I gladly confess that it seems to me that you are on the right track, and that I find no "holes" in your proposition. All I meant to imply by my former remark was that the danger, in such operations as yours, was in being coaxed to admit others into your project as a mere speculative investment, with no desire to accomplish anything

(Testimony of John Grant Lyman.)

except to make money and then to get out! The plan you hold before yourselves is the more conservative one, but certain to benefit all concerned, in the long run.

As soon as I can make any definite statement about the Flag and Coat of Arms of Panama, I shall let you know.

As for the photographs, the system required by the Library is the payment of a small sum, five to twenty-five cents, for each copy of any photograph available from the collection, in which case the copy belongs to you, to do with it whatever seems best.

Suppose I make a choice of two dozen views of various scenes in Panama, and send them on to you, will that answer?

Sincerely yours,

ALBERT HALE. [740]

Dr. J. G. Lyman,

216 Mercantile Place,

Los Angeles, California.

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defs. Exh. "Q." Filed Nov. 28, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

Mr. SCHENCK.—I now offer in evidence a letter dated August 4, 1911, addressed to Dr. Albert Hale, care Pan-American Union, Washington, D. C., as Defendant's Exhibit "R," reading as follows:

(The said letter is marked Defendant's Exhibit "R," is read in evidence, and the following is a copy thereof:)

Defendant's Exhibit "R"—Letter, 8/4/11, — to
Hale.

8/4/11.

Dr. Albert Hale,
c/o Pan American Union,
WASHINGTON, D. C.

My dear Doctor:

Will you please have prepared for me another large map of the Panama Republic, showing in colors the proposed route of the new railroad from Panama to David. If you can, too, I would like to have outlined on same the new railroad which the English syndicate is going to build through the Darien district to the Tuira River, which Sr. Guardia writes me will be built.

If possible would like to have this map mounted on linen, or something so that it could be handled without so easily being torn. Will be glad to send you check when you advise what this will cost. I want the map anyway, even if it has to be on paper.

Do you happen to know anyone in Honolulu?

By the way, you will be interested to learn that Mr. Santiago de la Guardia has placed Mr. Fearon, Manager of the Inter-national Banking Corporation, on the Board of Directors of the Panama Development Company.

As a result of our efforts here a good many settlers are going to Panama, and we are arranging to develop a *lae* tract of land near Agua Dulce, planting the same to sugar cane. Thus far every body has been very much pleased, and as the lands are being

(Testimony of John Grant Lyman.)

sold under conditions that the purchaser can have his money back if displeased, there is naturally no ground for fault-finding, but it is none the less very pleasant that everybody should be so pleased.

With warm personal regards, I remain,
Most cordially yours,

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defs. Exh. "R." Filed Nov. 28, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

Mr. SCHENCK.—I offer in evidence a carbon letter dated July 19, 1911, addressed to Dr. Albert Hale, care Pan-American Union, as Defendant's Exhibit "S." They were all written from Los Angeles. [741]

(The said letter is marked Defendant's Exhibit "S," is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "S"—Letter, July 19, 1911,
—— to Hale.**

July 19th, 1911.

Dr. Albert Hale,

c/o Pan American Union,
WASHINGTON, D. C.

My dear Dr. Hale:

Please accept my best thanks for your favor of July 12th, together with Panama views, all of which are quite satisfactory, and enclosed please find check to cover.

You will be interested to learn that we have sent Mr. E. D. Ryan, who was for ten years with the

(Testimony of John Grant Lyman.)

United Fruit Company, having had charge of an eight square mile plantation at Bocas del Toro, to Panama, and he is going to look after our development down there.

The writer is going down again in a couple of months and we anticipate having something to show there before long, as we are going ahead actively with our development, both as to sugar and with out citrus fruit project.

Have you seen Mr. Santiago de la Guardia? He was in New York recently?

With warm personal regards, I remain,

Most cordially yours,

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defs. Exh. "S." Filed Nov. 28, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

Mr. SCHENCK.—I offer a letter dated June 5, 1911, addressed to Dr. Albert Hale, care Pan-American Union, Washington, D. C., Defendant's Exhibit "T."

(The said letter is marked Defendant's Exhibit "T," is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "T"—Letter June 5, 1911,
—— to Hale.**

June 5, 1911.

Dr. Albert Hale,
c/o Pan American Union,
Washington, D. C.

My dear Doctor:

Thnks for your kind letter of May 22nd.

As to photographs of Panama, should be glad indeed to avail myself of your suggestion, and if you will make a choice of two dozen views of various scenes in Panama, and send on the same to me, together with the bill for amount due, will be glad indeed, to promptly remit.

Have just made arrangements with one of the United Fruit Company's managers—one who had charge of eight square miles of their plantation at Bocas del Toro—to take charge of our work, and I expect he will obtain for us some fine results.

I will keep you fully posted as matters progress, and shall hope to have our orange groves in full bearing by the time the Canal is opened. I expect to go down again myself in November, and possibly before.

Sincerely yours, [742]

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defts. Exh. "T," Filed Nov. 28, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

Mr. SCHENCK.—We now offer in evidence a letter identified by the witness as having been re-

ceived through the mail from Dr. Albert Hale, on Pan-American stationery, dated Washington, D. C. June 13, 1911, as Defendant's Exhibit "U."

(The said letter is marked Defendant's Exhibit "U" is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "U"—Letter June 13, 1911,
Hale to Lyman.**

(On memorandum sheet of Pan American Union.)
Washington, D. C., June 13, 1911.

Dear Dr. Lyman:

Your letter of June 5th, 1911 came duly and I have, in accordance with the request therein, to-day ordered the photographers to reproduce 20-24 views of Panama, which will give a rather comprehensive view of conditions in the Republic, both in the cities and the country, especially in the neighborhood of *David*, so that they illustrate the character of the land where you are interested. I'll write you as soon as I can have the photographs forwarded.

Sincerely yours,
ALBERT HALE.

[Endorsed]: 672—Crim. U. S. vs. Lyman. Defts. Exhibit "U." Filed Nov. 28, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

Mr. SCHENCK.—I also offer in evidence as Defendant's Exhibit "V" a letter dated Washington,

D. C., July 12, 1911, on Pan-American Union stationery.

(The said letter is marked Defendant's Exhibit "V," is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "V"—Letter, July 12, 1911,
Hale to Lyman.**

(On letterhead of Pan-American Union.)

Washington, D. C., July 12, 1911.

Dear Dr. Lyman:

The enclosed photographs were delivered to me yesterday, and I hope they meet your approval. You will note that I have selected scenes illustrative of various features of life and of different conditions in the Republic of Panama. Some are the canal zone pictures, Panama City, old Spanish relics, city and country views & especially views of land & its development such as is found near your property. Please let me know if these are satisfactory to you. You can *demonstrate* with these 20 views about every kind of scene met on the Isthmus. The attached bill is for the 20 originals—duplicates are nothing extra. Please make out the check to Edward Block and send it through me. I'll explain when we meet. [743]

I shall be glad to hear from you again.

Cordially,
ALBERT HALE.

[Endorsed]: 672—Crim. U. S. vs. Lyman, Defts. Exh. "V," Filed Nov. 28, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.

(Testimony of John Grant Lyman.)

The WITNESS.—I think there was other correspondence with Dr. Hale not covered by what you have there. I wrote him in regard to taking up Government land and developing the same. That letter is not among those shown me. These first letters were written from the Alexandria Hotel before there was any office; and, if my recollection serves me, there was a file in the Panama office of Dr. Hale, and I had another file in my office, although these letters are all really personal letters.

Q. What is the plan you outlined to Dr. Hale?

A. As far as the sugar plantation is concerned, we proposed, to operate at Agua Dulce first by developing the Spanish land grant that I had spoken to him about, that Victor *Marawhad*, and that I had an option contract on, and in connection with that, to take up Government land, and develop not only on my own account, but on account of impending purchasers, the idea being to get a few interested in there to show them the profit in tropical agriculture and if it was possible, to get an American colony established there. There really was not very much interest by anyone on the point of going down there to locate, and I was very much afraid if they went in there and did not find other Americans, they would become disgusted and throw it up, before they could realize the possibility of profit, and we were going to do this development work on our own account. I also explained to him what my proposition was in London that I intended to work in connection with this. [744]

(Testimony of John Grant Lyman.)

Q. What was the London proposition?

A. The two subsidiary companies, the sugar estates company, and the tropical products limited, one was to develop sugar land, and the other tropical products,—copra and bananas, and I had in mind the cultivation of spices. They have apparently the same rainfall as in upper Ceylon, and the cultivation, of spices has never been attempted in Panama, so far as I know. Those two companies were formed for the purpose of taking up 50,000 acres of Government land for each company. They were each subsidiary to the Panama Development Company. Those concerns were formed, and, in order to make the shares fully paid up under the laws of Arizona, the entire capital stock was issued to the Panama Development Company in return for a contract whereby it was to secure these 50,000 acres of Government land, and in order to provide for the development work—in other words, to put it in sugar or tropical products— $\frac{3}{5}$ of the capital stock was set aside as working capital. In order to register those companies in England and sell the shares, to provide a working capital, it requires registration fees of \$15,000 for each company, and there were two bills of exchange drawn for \$15,000 each, attached to 30,000 shares of each company, which were sent to London to my correspondents to be held by them and to be delivered against cash on the basis of 10 shillings for each 20-shilling shares. That would produce \$15,000. Those shares would be sold in this manner: The English law forbids the

(Testimony of John Grant Lyman.)

sale of shares for a working capital at a discount, but vendor's shares, which in this case were of the Panama Development Company, can be sold at a discount, but you have to state what they are. A plan would have been to issue a prospectus [745] which would have been without date, and without anything to show that it was an official document, such as is required by the English laws, and that would have been sent to the brokers throughout the United Kingdom, with the statement that the company would shortly be registered in England, to take up 50,000 acres of Government land. In this prospectus were to be given the extracts from the bulletins stating the character of the land, that the work would be in charge of a manager that I expected to come from Hawaii.

Q. Who was that?

A. Mr. Dowling, manager of one of the largest estates in Hawaii. You understand, there was no certainty of getting him, but he indicated a desire to go to Panama, and I was going to see him. But the circumstances were that there were old friends of mine in Hawaii who had large plantations, and I knew if I could not get Dowling, I could get a manager to take charge of the development. In addition to that I had Mr. Ryan, who had been in the United Fruit Company, who was going to select these lands, and it was going to be taken in one block.

Q. (By Mr. REGAN.) And this was before or at the time the Panama Development Company was started?

(Testimony of John Grant Lyman.)

A. The Panama Development Company was started. But the Panama Development Company was only an incident to this. I started the Panama Development Company to bring this about. I intended to use the Panama Development Company as a means of selling Government lands and other lands to English companies, that are organized.

Q. (By Mr. SCHENCK.) The whole thing, the Panama Development Company, the Sugar Estates Company, Limited, and the [746] Tropical Products Company, Limited, were all in your mind as a formulated plan of operations, both for the development of Panama and the flotation of the English Companies that were subsidiary to the Panama Development Company? Is that right?

A. That is right. My impression is that Mr. Ryan was employed about the first of August, 1911. He went to Panama before Mr. Smith, and when Mr. Smith got down there, he had gone up to Chiriqui, to look at the land, and then he expected to come down and go to Agua Dulce.

Q. Have you outlined the entire plan that you have in your mind as to the formation of these companies?

A. No; I was interrupted. I started to say how the capital was to be secured. There are a large number of bankers throughout England, who will take vendors' shares and sell them to their clients who are content to wait for a year before there can be shares on the Exchange. Then the shares are not a good delivery and could not be dealt with on

(Testimony of John Grant Lyman.)

the stock Exchange. They were to be sold at a discount of 12 and 6.

Q. How much is that?

A. 3 and 12 each. And I expected to make a half a crown on each share, and if the brokers would sell for 15, it would give them 2 and 6. And sometimes there was only a threepence from the sale of a share, and they were very glad to sell these things and there is no trouble about selling things to people who are willing to wait for profits. I had the names in my office of over 9,000 people to whom I had sold shares in tropical ventures, and I had the names of over 20,000 people who had bought sugar shares and I had the numbers and amounts, and prices paid, and also a much larger list of those who invested in industrial corporations, and I was in a position the moment I had a proper manager and the land selected, to go to these [747] people and get almost any sum of money that I needed. Out of the 9,000, there was not one of the tropical ventures that went wrong. They were highly profitable, and it was easy to interest capital in similar ventures, particularly to people who knew about it.

Q. What became of the bills of exchange that you talk about?

A. They were sent to London and were accepted and the shares were sent there, and the whole thing was held in *statu quo*, waiting till I could get a manager, and could hear from Ryan that the lands had been selected, to go down to Hawaii awake, it was brought out here that there had been issued to

(Testimony of John Grant Lyman.)

me three contracts for a thousand acres each of Panamanian lands, by which I gave my note to the Panama Development Company for \$2,500 each. As a matter of fact, I took 10 of those contracts at \$2,500 each and gave my notes. I intended to take them to Hawaii and make statements to certain sugar planters as to the value of the land and what could be done in Panama. I intended to locate them in the bank against deposits, giving them a fair option to go to Panama and see that the lands were as represented, and I expected that Mr. Dowling would look after the development there. He had already indicated a desire to go, and had looked into that as well as he could from the point. The sugar lands in Hawaii, have advanced from \$5 to 3 and \$500 an acre. The same thing in Porto Rico and Cuba. A sugar plantation of less than 10,000 acres is of no particular account. After placing these 30,000 shares which I had sent to London, and which would provide all the funds necessary for registration and putting the company in position to issue its official prospectus, shares of which there were three-fifths of a million dollars, would have been sold at par, and a quotation would have been obtained on the London stock Exchange, [748] and by that means, sold all over Europe. I came to Los Angeles with a view of living here because I believed this coast would have a tremendous development on the opening of the Canal. I was interested in growing cotton and expected to open a cotton mill later on. My first thought here was that

(Testimony of John Grant Lyman.)

in connection with my promotion in England, I would organize the Panama Development Company to take up there Government lands, and endeavor to float a proposition here which would work in connection with that European business. To carry that out, the first thing necessary was to get two men who were capable of managing an office and receiving applications for Government land and forwarding the same to Panama. I advertised for men with considerable executive ability, who had experience in corporations, and also one who had experience in dealing in land. Mr. Smith applied and he had had considerable experience in Mexico in a colonization project. I gave him the outlines of the plan. I told him that I had been to Panama; that I had promoted a number of tropical companies, and apparently Panama offered a better field than any other place in the world, and that I had gone down there with letters from Dr. Hale, who had given me considerable advice regarding it, and Victor Morrow, who was a sugar expert, and had been down there and looked over the country, and had come back very much enthused over the prospects, and that I wanted to form a small corporation here with a view of taking up Government lands, developing the same and endeavoring to get a small colony started down there. That I did not much care whether we made a profit out of their going down there, but the main thing was to get someone down there to get it started, and we would take charge of the development work till the thing was

(Testimony of John Grant Lyman.)

on its feet. I asked [749] him what experience he had in similar lines, and he told me he had been down to Mexico in charge of a colonization project, and had been connected with a great many companies, and his references were satisfactory, and I engaged him. I think it was about the same time that Mr. Redpath called. He showed me some very fine letters of recommendation regarding himself. I telegraphed him the following day to come and meet me. I told him that I wanted to form a corporation with a view of taking up Government lands and developing the same and endeavoring if possible, to get some colonists to go down there to locate. I don't think I mentioned to Mr. Redpath that I wanted to do any promoting in London. I stated to Mr. Redpath that I wanted to organize a small corporation to take up Government lands on behalf of individuals and by virtue of a power of attorney. I stated that the laws of Panama permitted now foreigners to acquire land under the same conditions as native Panamanians; that there had only been recently opened to outsiders the privilege to locate on terms as granted to natives; that there was a great deal of land down there of the greatest fertility possible, and I gave him a book by Forbes Lindsay which went into the matter, and I stated to him that Forbes Lindsay had been sent by this Government to report and that he would find in this book, articles that appeared in the Pan-American Union, and an official bulletin issued under the auspices of the United States Government. I asked

(Testimony of John Grant Lyman.)

him to take it home and look it over and let me know, and I engaged him the next day.

Q. Had the Panama Development Company been organized at that time?

A. I think not. [750]

I told Smith & Redpath that in addition to their salary, they would be each given an opportunity to have a $1/5$ interest in the business, and that I should retain a $3/5$ interest; that they would not be expected to put up any cash for their interest, that they could give their note for it, and meet that, either from profits accruing on the stock, or from such commissions as they might earn, and that pleased them very much indeed. As I say, it has been my custom for years where I promote a company, to give the men who conducted the same, a $1/5$ interest. That is the only way that I have ever been able to get their best services.

Q. After the Panama Development Company was organized, some of the stock was actually issued, was it?

A. There was issued, as you see here—there was never any sold to the public. It was never intended that there should be more than three directors who directed. They were to be Redpath, Smith and my suggestions were to be adopted, although the stock stood in Polinger's name as my nominee. Mr. Lynn was put in, but only to have a quorum. Miss McDonald was put in and she was acting as my secretary and I expected her to continue so to act and she was put in as treasurer. I anticipated that the

(Testimony of John Grant Lyman.)

Panama Development Company would certainly make very large profits through these promotions, and at that time I expected Miss McDonald would hold the money. All the money that Smith and Redpath had at their disposal was such as was required for the requirements of the office.

Q. Now, in this exhibit, there are so many shares of stock issued. There is under date of the 16th day of May, eight shares of stock issued—eight certificates of stock issued—all bearing date the 16th day of May and signed L. R. Smith, secretary and John Redpath, vice-president. Do you know when those certificates were made out? [751]

A. They were made out on the day which they were dated. I saw them while they were made out, but I could not swear as to the date I saw them issued, and I believe if they had been dated on any other day than the date on which they were issued, I should have noticed it.

Q. Explain those issued with reference to each certificate what it is, what it was for, and what was said about it?

A. This certificate of Hernan de la Guardia you will find was issued for cash. That cash was put in by me; the amount was \$1,000 and the stock issued to Guardia. As to certificate No. 1, my recollection serves me that it was issued for cash and that I paid for one certificate; No. 2, being part of United States Exhibit No. 71 was issued to John Redpath for ten shares. Certificate No. 3 for ten shares was issued to L. R. Smith. As far as I know no cash was paid

(Testimony of John Grant Lyman.)

in against this, and the same with respect to Redpath's certificate. The same remarks would apply to I. N. McDonald and E. A. Lynn. As to Ferdinand Pollinger, there is a note of 30,000 against this certificate. The last time I saw Pollinger's certificate was in the safe, and a note signed by John Redpath for \$10,000 and a note for \$10,000 signed by L. R. Smith. The notes were made payable to the Panama Development Company, and if I recall correctly were demand notes.

Q. You had a talk with Redpath about the notes and the issuance of that stock?

A. I did, and that is why he got no cash commissions on the Haldeman property, that was credited on the note. He was entitled to a commission of \$1,000.

Q. What conversation did you have with Smith as to the issuance to him of that stock? And signed by him, with the [752] promissory note of \$10,000?

A. I couldn't issue stock without the consideration, and I was desirous of giving him an interest in the business, and anticipating that it was going to be a profitable venture, and I could obtain his best services if he was to have a $1/5$ interest in it, which was to be paid out of the profits. And this note was to be automatically cancelled by his commissions. As an example, there was to be a profit out of the vendor's shares sent abroad, which would come to the Panama Development Company, and they would have got their proportion of it. The last

(Testimony of John Grant Lyman.)

time I saw the Smith certificates they were all together in a large envelope in the safe at the office of the Panama Development Company on Mercantile Place.

Q. Did you have a conversation with Redpath about the thousand shares?

A. I did, that he was to have an interest in the concern—a $1/5$ interest,—which was to be paid out of the profits. He was not expected to pay any cash,—only the commissions he might earn, and the Haldeman commission was credited and endorsed. That he was to give a note for his interest, which would be lodged with the stock, and none of this was to be disposed of or moved from the safe until it was all paid up. He executed a promissory note for \$10,000 and it was attached to the certificate. The last time I saw the note attached to the certificate was when I saw it taken out of the vault one day and something done with these certificates. I don't remember what it was for. He had charge of these things. I wouldn't want to swear to it, but I firmly believe there was an endorsement on there of \$1,000. [753]

The understanding with him was that he was to have a 10 per cent commission on all business that he did; that he was not to draw any commissions in cash until his note was paid. That he was not to dispose of this stock or draw any cash until the note was met—in the way of commissions; *there another* note attached to the Pollinger certificates payable to the Panama Development Company, signed

(Testimony of John Grant Lyman.)

Pollinger and endorsed by me. A day or two before the minutes were prepared, making Hernan de la Guardia president, I told Redpath that he was to be vice-president of the company and a director. I think two of the minutes were written or dictated by me. The one that I dictated is not in there; the date of it I do not know.

Q. Do you know what the meeting was about?

A. Yes; in order to make the capital stock of the Panama Development Company fully paid up under the laws of Arizona, under which it was incorporated, a deed to a certain oil claim—I don't know but what it was more than one—in Basin, Wyoming, was issued in return for the entire capital stock of the Panama Development Company—\$1,000,000 of stock. Those minutes do not seem to be there. As I remember that is the very first series of minutes that were written. I dictated at least one other series there. I saw Mr. Redpath sign these minutes, but I don't recall Mr. Lynn signing them. Those minutes dated May 16th were signed, to the best of my knowledge and belief, on that date.

Q. You heard Mr. Redpath testify he never saw the minutes until some time in the middle of August?

A. Yes, sir, I heard that. He most assuredly had seen them before the first of August. He had signed them and we discussed the matters in here, and there are some minutes that I know that he prepared that are not here, for instance, the [754] minutes relating to the appointment of Smith and giving him a power of attorney, which were sworn to and cer-

(Testimony of John Grant Lyman.)

tified to, and copies sent to San Francisco to be sworn to before the Panamanian Consul,—Mr. Redpath prepared those and they are not here. I cannot state the date that he prepared them, but on the very next day there were copies sent to San Francisco, and that will show. The correspondence with the Panamanian Consul at San Francisco will enable me to fix the date. Mr. Redpath did not dictate the minutes referred to. He sat down and wrote them off and asked me to approve of them, which I did. I cannot say whether they were signed in my presence by him. They were written out in longhand, they were to be typewritten—copied from that. That happened before Smith went to Panama. When I talked to Mr. Redpath I told him that he was going to be vice-president of the corporation, would have charge of the employing and discharging of the agents, and that he would be expected to see that the contracts were kept in proper order; that Mr. Smith would have general charge of the office, so far as pertained to the correspondence; that Mr. Redpath was really to be the head of the business. I never should have given either one of them an interest in the business if it had not been that they were to be part of it. Lynn had no such interest. That map (U. S. Ex. 40) was sent to me by Dr. Albert Hale. I am not certain whether the green and the blue, and the light on Chiriqui were there or not, but the railroad was marked on there. This is the map referred to in the correspondence between Dr. Hale and myself, and which correspondence we have been reading here.

(Testimony of John Grant Lyman.)

I know that the railroad from the city of Panama to the city of David was outlined on there. I do not know of my own knowledge who put that red line on there of the railroad, excepting as I got it through Dr. Hale. [755]

Q. By conversation or letter?

A. Dr. Hale, in my first conversation with him, told me that he would have a map prepared of the railroad from the official surveys filed in the War Department. Those things are not supposed to be given out to the public; and afterwards I think I wrote to him and asked him if I could have it. This was before I went to Panama, that this offer was made to me, and after coming back from Panama then I was anxious for a map with the proposed railroad on it.

Q. Did you ever have a letter from Dr. Hale with reference to who had actually put the railroad in red on that map?

A. He told me when he saw me that it would be prepared from the official surveys filed in the War Department, and the map is precisely in the same condition as it came to me, with the exception, possibly, of the coloring of the different provinces. I am almost certain that the colors were on there when it arrived.

Q. Now, then, take this little map, Government Exhibit 43, showing Agua Dulce colony, when did you first see that map?

A. It was when one of the Panama Development Company salesmen named Pentland brought in a

(Testimony of John Grant Lyman.)

rough sketch of Agua Dulce district and the town of Agua Dulce. I don't think it was quite in this form, I think the blocks were 640 acres or a square mile. Pentland said to me that it was in no sense intended to be an official map, but it was to convey to possible purchasers a general idea of the particular district. And on that large map it is practically impossible to show that there is any water transportation away from the district of Agua Dulce; and, if my memory serves me, Mr. Pentland brought up the fact that Agua Dulce was not an incorporated town, and that it had defined lines, and therefore—so far [756] as he could find from investigation—it would only be possible to show in a general way the town and the surrounding country.

Q. Under what circumstances did you first *met* Mr. Pentland?

A. Mr. Pentland, as I recall, was introduced to me by Mr. Redpath. I can't say as to what he said regarding him, more than that, if I remember correctly, he represented a group of possible investors down in Orange County, who wished to get up a colony, and were looking for an option on a tract of Government land, down there. I think he outlined his scheme to me. The substance of it was that he would get a certain number of people to pay \$10 each, and they would select two-thirds of their number to go down there and look over the land, and if they approved of it, then they were to take whatever they had agreed upon. I don't think that map, United States Exhibit 43, was in existence at the time of those conver-

(Testimony of John Grant Lyman.)

sations, which I speak of. I told Mr. Pentland there was a large amount of Government land available in the Agua Dulce district, and that I would be very glad to have him take up such an enterprise as he indicated, and he could have an option on 10,000 acres, but they would have to show good faith, in a certain time, whereupon he would be given a written option; and he proceeded on those lines, and I believe at that time, within a very few days thereafter, he brought a rough draft, or map, something on this order, and he proposed to show to his intending purchasers, so that if Mr. Smith, we will say, wanted block 18, and Mr. Brown, a neighbor, wanted block 19, he could show them where he would locate them, and that after all the returns were in, they were to be allotted lands with whatever arrangement he may have made with them; [757] and in order to insure satisfaction, these people were given the privilege of getting their money back if they found the lands—not satisfactory.

I had nothing to do with the making of U. S. Ex. 43. The rough draft which was shown to me, he asked me if I approved of it, and I stated that I did. Dr. Hale informed me that there were Government lands all along the line of the proposed railroad through the Agua Dulce district. That is as far as I went. What we proposed to do was to lay out our town down there. This proposed railroad, as I understand it, does not touch the hamlet of Agua Dulce. Down there to-day, it is nothing more than a lot of palm buildings with thatched roofs, and we

(Testimony of John Grant Lyman.)

intended to have our own town, and in near proximity to the sugar mill we should eventually erect there. Mr. Morrow told me there were at least 100,000 acres of Government land in the Agua Dulce district available; and Mr. Dr. Hale told me that there was ample acreage on both sides of the railroad all through the Agua Dulce district. There was nothing said by me about changing the location of the ocean on that map, and I made no suggestion as to it more than to show where the water was.

Q. Now, do you recollect the testimony that was given here about some change made in Montijo Bay on the other little map, that had some of your literature, or reading matter, on it?

A. In my recollection, the large map which was reproduced by photographic process, brought that harbor down so small with the island, in it, that it showed no island. The printer or lithographer suggested that the side which was shallow there in that island, which was exposed when there is low water, be left off the color, so that the name "Montijo" might appear. We were not selling land on that island. [758]

Q. Where did you get any information about that Montijo Bay?

A. Mr. Morrow told me that. I first heard of it in Cuba. I think it was in January, 1911, when I talked with Mr. Morrow. He said that he had found a tract of 15,000 or 20,000 acres, covered with fine timber, which would make a magnificent sugar plantation if it was cleared, and laid off, that a camp

(Testimony of John Grant Lyman.)

could be put in there, which would enable one to take the timber off, the development wouldn't cost anything. He spoke about this harbor; that a large part of this island here was only exposed at low tide, but that there was ample water in the channel for a boat to navigate in this vicinity; and I think the printer spoke of this when he reproduced this.

Q. Now then, did you hire any of the employees, other than Mr. Smith and Mr. Redpath?

A. I did not. It was my habit to go to the office of the Panama Development Co. every noon and spend about fifteen or twenty minutes, and again just before closing time, fifteen or twenty minutes.

My impression is now that that letter (U. S. Exhibit 1) was written on the very day that I talked the matter over with Mr. Redpath and Mr. Smith.

I asked Barry to use his name as an incorporated—not with any idea that he would serve on the board or of his acting in any way.

Q. Did you talk to Mr. Lynn about his being one of the incorporators and directors named for the first year?

A. I do not recall whether I did or not. I hired Mr. Lynn and that is how Mr. Lynn was with me before the Panama Development Company was organized.

I think I wrote U. S. Exhibit 5. [759] A letter had come from Mr. Guardia that our capital was too large down there to register, and he suggested that a rather small company be formed under the Panama law, and the capital reduced; and after dis-

(Testimony of John Grant Lyman.)

cussing the matter with Mr. Redpath and Mr. Smith, we decided that the best thing to do would be to reduce the capital here; and with that end in view, that letter was written.

Q. Now then, were there any minutes and resolutions passed reducing the capital?

A. There was. Mr. Redpath took part in those meetings, and he approved of the diminution of capital. The object and purpose of reducing the capital was so that the papers could be filed in Panama, because instead of there being \$2,000, it would be \$200.

Q. For what purpose were you going to file your articles in Panama?

A. Well, that was necessary there in order to do business. We had sent the papers down to Mr. Guardia; he had returned them and said that must be authenticated before the Pan American Consul and as soon as these papers were received, they were returned—they were not returned from Arizona until the middle of August,—I think the 12th or 14th—they were sent to the Pan American Consul to be authenticated.

Q. Do you remember when it was that the original articles had been sent to Mr. Guardia?

A. But it must have been early in May. Oh, yes; I talked with the Guardias when I was down there, as to the railroad. They said that the bids were then being asked for, or would at a very early date. Santiago de la Guardia first suggested associating Mr. Fearon with the company. [760]

Q. Referring to Government Exhibit No. 37, which

(Testimony of John Grant Lyman.)

is a letter from Santiago de Guardia to E. A. Lynn, in Spanish; I will ask you if you ever saw that before?

A. I have no recollection of ever having seen this letter until it appeared here in this court. It was not taken from my effects, or from my person in San Francisco at the time I was arrested. If that letter had been among my effects, I surely would have seen it. I never saw it until I came here into this room.

Q. Who composed the reading matter of U. S. Exhibit 45?

A. I did; every bit of it. The source of my information was from the bulletins of the Pan American board and Forbes Lindsay's book; extracts from Forbes Lindsay's book and extracts from the official reports to the Pan American board.

Q. Then, is there any statement in this exhibit 45 for which you had any different authority, other authority than Forbes Lindsay's book and the Pan American bulletins?

A. There may possibly be something in there that Dr. Hale gave me, but I think not. I think that is from the official documents, every word. Dr. Hale told me that anything that I saw in the Pan American bulletins was official, were issued under the sanction of the United States Government, and that the statements in there were prepared with great care and were absolutely correct. That is what the circular was based on.

Mr. SCHENCK.—Q. In the bulletin of April,

(Testimony of John Grant Lyman.)

1910, page 673, under the title "Panama," it reads as follows: "The number of native cattle in Panama is estimated at 5,000 head. It is safe to say that the Republic has enough grazing lands to support 500,000 head of cattle, which would not only supply the country with all the fresh milk and beef needed, but would [761] make it a meat exporting country. The Press is urging stock-raisers to import horses and cattle of the best blood, with a view of improving the native stock." You had read that article, had you, Mr. Lyman? A. I had.

The COURT.—You are going to read from the books all that you expect to rely upon.

Mr. SCHENCK.—Yes. (Reading:) "The Department of Fomento of Panama is preparing to make a systematic study of agricultural possibilities of the different provinces of the Republic. The results of these studies will be published in pamphlet form and distributed throughout the farming districts. The provinces of Chiriqui and Veragus have already been examined by competent agricultural authorities and reported as economically suited to the production of staples as sugar, tobacco, rubber, corn, rice, wheat and vegetables."

Page 1059, under the title "Panama," reads as follows:

"The Government of Panama has contracted with the Panama Railway Company to build a railway from the city of Panama to David, the capital of the Province of Chiriqui. The distance is about 274 miles, and it is expected that the route surveyed by

(Testimony of John Grant Lyman.)

the Inter-continental Railway Commission in 1893 will be practically followed. The road will traverse a rich district and will be an important factor in the development of a large and fertile section of the Republic. It will form a link in the great Pan-American road that will ultimately be built into the heart of South America, and which at some time in the future will enable a traveler to go by rail from New York to Buenos Aires, and to nearly all the capitals of the three Americas. The cost of constructing this road was estimated in 1903 at \$4,657,280. [762]

The contract calls for a standard gauge railway from the city of Panama to the city of David, connecting with Empire in the Canal Zone, and Chorrera, Penonome, Nata, Agua Dulce, and Santiago in the Republic of Panama, with a branch line from or near Santa Maria to the town of Pedasi in the province of Los Santos, and a branch from the foot of the Divide or Cordillera to Anton in the province of Coclé. The Government of Panama will advance the money to the Panama Railroad Company with which to begin, carry on, and complete the work of construction. The railroad company will render monthly statements to the Government showing how the money advanced is expended, and the books of the railroad company are subject to investigation at any time by the authorized representatives of the Government of Panama. “—— (stars) ——” The contract, which was submitted to the President of the Republic for approval, was signed on March 30, 1910, by the Secretary of Foreign Affairs of the

(Testimony of John Grant Lyman.)

Republic, in representation of Panama, and the superintendent of the Panama Railroad in representation of the company.

The Panama Railroad has appointed George H. Ruggles to take charge of the surveying forces, and five locating parties have been put in the field. The first installment of \$25,000 has been paid to the railroad company by the Panama Government."

Mr. SCHENCK.—"The existence of the Tisingal mine has never been doubted, or is it considered the product of the fertile imagination of the natives of Chiriqui. — (stars) — During the dry season of 1909, there was discovered about four days' journey from the present town of Bugaba, a guacal or burying-ground, from which there has been taken over \$25,000 worth of gold up to the present time. The guacal is located in the district of Corregidor, and as many as four hundred [763] natives have been at work in it at one time." That is volume 30, in the magazine for March, being three magazines in one. In the magazine for August, 1910, under the title "Panama"; and being on page 279, it says that Panama "has an area of 32,380 square miles, nearly equal to that of the state of Maine, and a population of 361,000, or 11.1 per square mile. Two mountain chains traverse the territory of the Republic, inclosing a number of valleys and plains which afford excellent pasturage for cattle, and in which all the products of the tropical zone are raised. The slopes of the mountains are covered with extensive forests. Among the products for export, bananas, tobacco,

(Testimony of John Grant Lyman.)

indigo, *tobacco*, sugar cane, india rubber, vegetable ivory, turtle shells, pearls, and mahogany are the most important. Gold, as well as other minerals, is found in the country, and a number of mining concessions have recently been granted."

On page 282 of the same volume: "The distinction between the Republic of Panama and the Canal Zone must be borne in mind, because the following statements are applicable, as a whole, to the Republic:

"The Government showed during the year a commendable ambition to foster all conditions which would lead to its material and intellectual progress. Perhaps the most noticeable project was the decision on the part of the Government to build a railroad on the west slope of the Cordilleras, between the Canal Zone and the city of David, in the province of Chiriqui, 274 miles west of the city of Panama. A survey of this line has already been commenced, appropriations have been made for its construction, and during 1910 decided progress will be reported. Significant, also, of the opening up of [764] the country is the survey recently completed from the proposed western terminus of this railway to Bocas del Toro, along which a cart road will ultimately be built."

In the volume for September, 1910, on page 452, the following: "With the rapidly approaching completion of the Panama Canal and the beginning of the work on the Panama-David Railroad, the attention of American investors is becoming focused on the rich undeveloped lands and mineral resources

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of the Republic of Panama adjoining the Canal Zone along both banks of the canal, and inquiries are constantly being made as to the possibility of taking up tracts of vast areas of virgin forests and rolling cattle ranges comprised within these public lands. The National Assembly of Panama has anticipated this result of the canal work and the influx of Americans and American capital and has thrown open to acquisition by Americans on equal terms with native Panamanians, the lands lying along the Pacific Coast to the west of Panama City, a stretch of over 300 miles, which lands since the years 1705 and 1735 have been held as commons of the various municipalities scattered along this coast and inland to the *cordillera* or watershed."

"The public lands of Panama are divided into two main divisions, known as *tierras baldias* and *tierras indultadas*. The former are the public lands of the Atlantic coast, stretching from the boundary of Costa Rica in the Province of Bocas del Toro to that of Colombia in the Province of Panama, a distance of more than 500 miles, and inland to the divide; and on the Pacific coast from the Punta Chame 30 miles southwest of Panama City to the Colombian border in the provinces of Chiriqui, Veraguas, and Panama, principally. They are therefore comprised entirely within the five provinces of Bocas del Toro, Chiriqui, Veraguas, Colon, and Panama on the Atlantic, and Panama on the Pacific." [765]

"In addition to these there are included in the *tierras baldias*, the islands of the Pacific off the coast of

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provinces of Chiriqui, Veraguas, and Panama, principal of which is that of Coiba, off Veraguas, an island 25 miles long by from 5 to 15 miles in width, almost entirely covered by a dense tropical forest in which are to be found many valuable hard woods, including mahogany lignum-vitae, cocobolo, toble, cedro, maria, etc. This island, as well as numerous smaller ones nearby, can be acquired as a whole, under the law governing tierras baldias."

Page 455: "Probably the largest cultivator of public lands on the Atlantic coast of Panama is the United Fruit Company, which has taken up more than 25,000 acres near Bocas del Toro for the raising of bananas. Until the enactment of the new law providing for the issuance of perfect title to such lands on showing actual cultivation and by making a small payment per hectare, these lands were held with usufructuary title only, reverting to the public domain on abandonment. But under Law 19 of 1907, once absolute title is issued by the Administrator of Lands, the grantee becomes possessed of a title that is nonforfeitable.

"The same holds true with respect to the tierras indultadas of the Pacific Coast, also called Indultos, which during the early years of Spanish occupation mean lands that had been released from the rest of the public domain by the payment of a certain sum to the King of Spain. This was done in the years 1705 and 1735 by the municipalities of Nata, Los Santos, Las Palmas, Alanje, and others of the "Colony of Tierra Firme," now the Republic of Panama, and these lands have been held *pro indiviso* by the

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inhabitants of these towns since that time up until the passage by the National Assembly of Law 3 of 1909, recently gone into effect, and which provides for the adjudication of provisional and later perfect title to these lands under certain conditions prescribed therein, for the setting of a [766] standard value thereon and the terms of payment allowed. These tierras indultadas are situated on the Pacific coast only, to the south and west of Panama City, in the provinces of Chiriqui, Veraguas, Los Santos, and Cocle."

"The present article will explain the procedure prescribed by the law mentioned above for the taking up of tracts of land of the indultadas, as these are the richer, more valuable and more accessible, and will be the first developed, due to the fact that the Panama-David Railroad will pass through them for a distance of nearly 300 miles. The purposes for which such lands *made by* acquired, the conditions under which provisional title will be issued, the price and terms of payment, and the conditions to be complied with in order to perfect title thereto, will also be explained." — (stars) —

Articles 5 to 26 of this law provide for the issuance of perfect title to settlers on the land at the time of the enactment of the law, but as this class of holders is comparatively small, these articles of the law will not be entered into, except in such cases where they also apply to future holders." — (stars) —

American investors will probably be interested

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only paragraphs 1 and 4 of this article, as will be shown further on.

Paragraph 2, which reads: 'For the establishment of annual cultivations, 'concerns principally the native squatter who makes a small clearing in the forest, or bordering the savannas or llanos, on which he raises such annual crops as corn, rice, yams, yuccas, tobacco, plantains, etc., and who seldom remains in any one place for more than a few seasons. Usually he does not live on the land, but in the small villages scattered along the highways throughout the provinces. — (stars) —.

"Large tracts of these lands have already been taken up [767] under this provision of the law in the provinces through which the Panama-David Railroad is to run. By an arrangement made between the Governments of the United States and Panama, the Panama Railroad is to do the survey and construction work on this new road, and 5 survey parties have already been sent out. It is probable that between 60 and 80 miles of this road will be ready for operation within the next two years."

Page 458: "Throughout the provinces of Chiriqui, Veraguas, Cocle, and Los Santos are extensive ranges of natural grass lands belonging in common to the inhabitants of these provinces. Cattle graze on these llanos, and paragraph 3 of article 44 provides that no more than 30 acres of such lands may be granted to any one person, as follows:

For the raising of cattle, up to 12 hectares of savanna lands may be adjudicated in usufruct, always

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that no anterior rights are prejudiced.

This provides for the construction of private corrals and branding pens *about* of the open range, and for the planting in grass of potreros or fattening pens, along the banks of the rivers traversing the ranges. Such pens are found to be of great convenience to cattlemen, as the small coasting steamers of the west coast can ascend the rivers for miles and take on cattle direct from the pens for the Panama market. Every landholder has the right to graze an unlimited number of cattle on the public range.

—— (stars) ——

Certain parts of the ranges are entirely withheld from private acquisition, by paragraph 2 of article 28, as follows:

“The following are not adjudicable: The savannas and fields that are or can be natural pasture grounds, such as *sesteadores* and *abrevaderos* (resting and watering places for cattle) of the ranges and woods contiguous thereto. [768]

“By *sesteadores* and *abrevaderos* is understood those places to which cattle are accustomed to go with regularity to satisfy the necessity of rest, water and shade, respectively.

“While the above quoted section of this law, by withholding from private acquisition these parts, affects a certain portion of the *indultos*, yet it is by far the minor part, and has no reference to the vast *seltas* of timber lands abounding in hard woods and rubber, nor the long, level stretches of sandy beach land covered with light scrub and wire grass, along

(Testimony of John Grant Lyman.)

the Pacific coast of Chiriqui and Veraguas, on which are found thousands of wild cocoanut trees. At one time a considerable quantity of cocoanut oil was extracted by the natives from the nuts gathered along the Chiriqui coast, stretching around Punta Burica into Costa Rica for a distance of more than 100 miles; and it is certain that this industry will again be exploited with the renewed activity in this section. — (stars) —

It has now been shown what lands of the indultadas may be acquired, provisionally first, and at some time during the four years next following, by cultivation, with perfect title, and what lands are to still be held as commons to all the inhabitants and landholders of the provinces within which they are located.

“Once the tract of land desired has been picked out, for instance, 1,000 or 25,000 acres of timber lands in the western part of Chiriqui, or along the coast of Veraguas, or of lands suitable for coffee growing, such as those of the Boquete Valley, where there is at present a colony of American coffee planters, and investigation has shown that its boundaries will not conflict with those of neighboring landholders, articles 10 and 29 provide for the next step necessary as follows: [769]

ARTICLE 10. If the petitioner should omit some of the formalities established by the foregoing article, the administrator will point out such omissions that they may be corrected, and once corrected, will be preceded with as in the case of article 14.

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ARTICLE 29. Every natural or corporate person that desires to acquire the possession of a tract of land for any of the purposes enumerated in article 27 will direct a petition to the Provincial Administrator of Lands, in which he will manifest the location of the land, its boundaries, its approximate extent, the name or names by which it is known, and that by which it is to be distinguished in the future. Such memorial will be accompanied by the testimonial proof necessary to demonstrate that the land is adjudicable in accordance with this law.

The petition must also recite the fact that the petitioner will recognize such servitudes on the land as public highways, railroads, telegraph and telephone lines, bridges, and wharves.

After the petition has been presented article 12 will then apply, reading as follows:

Article 12. If the memorial be in the required form and the accompanying proofs be satisfactory, the administrator will order the official surveyor to draw up a plat in duplicate of the land referred to in the petition; which plat should set forth the servitudes to be recognized by the land and those the petition might contain."

MR. SCHENCK.—Do you care to have these laws all read in their entirety? I don't care so much about them unless you want them.

MR. REGAN.—I don't care. Read what you want to.

MR. SCHENCK.—(Continuing reading:) "No opposition need [770] be expected, however, to peti-

(Testimony of John Grant Lyman.)

tions for grants made in good faith and which are not prejudicial to the interests of the province; as the Panamanians, especially those of the interior towns, welcome the American Investor and settler, and are ever ready to assista rather than hunder him."

"Along the rifer banks it will not be necessary to open up trochas for the survey of the boundaries, nor along the coast line, while inland on lands bordering on the llanos very little is required. On the heaviest timber lands, both along the coast and back in the hills, there is found but very little underbrush that is difficult to penetrate as the interwoven branches and leaves overhead shut out the sunlight, and trochas through such lands can be run very rapidly. An American cattleman in Chiriqui showed the writer where he with five machets men had once opened up an ox-cart trail 21 miles in length through the virgin forest in the short space of five days.

From article 44 it will be seen that at least four-fifths of the land taken up must be in use and fenced in by the end of four years at the latest. Should this be done before the expiration of this period, however, perfect title may be obtained at such time."

"Barbed wire fencing with live posts of the jobite tree, somewhat similar in appearance to the English hedge, is the usual fencing employed in the interior of Panama, although in *th* the forests the wire is run from tree to tree, thereby entirely eliminating post setting. This is a very inexpensive method of

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fencing in large areas and serves the purpose equally as well. The average cost in Panama of barbed wire fencing with jobite posts is 1 cent per linear foot."

On page 547 of the same volume: "As an indication of the great industrial development which will take place in the Republics of Central America as a result of the proximate opening [771] of the Panama Canal, the announcement that a number of the prominent and wealthy men of Colon have organized an agricultural company called the "Ingenio de las Minas," is of the greatest significance. The company has taken out articles of incorporation and starts operations with an authorized capital of \$350,000, \$60,000 of which has already been subscribed by the promoters. The main object of the company will be the cultivation of sugar cane on a large scale, while such products as rubber, bananas, and other tropical plants will be grown on any of the corporation's plantations which is suited to their cultivation."

Mr. REGAN.—Is that contained in any literature?

Mr. SCHENCK.—No, but it shows the productivity of the soil. (Reading:) "The Province of Bocas de Toro is described as a district of such vast and varied adaptability to the raising of valuable agricultural products as to necessitate a personal visit in order to appreciate its full possibilities. The bottom lands, it is stated, require no irrigation as there is an abundant rain-fall *fall*, and the whole country is well watered by numerous rivers and small

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streams. Coffee, cocoa, and bananas attain an extraordinary growth in this section and produce great quantities of fruit."

Page 1064 of the same volume: "No new mining developments took place in Panama during 1909. The Darien Gold Mining Company maintains its average output, and has the only mine of any importance in the Republic, although in the Provinces of Veraguas and Cocle there are several undeveloped mines."

In the volume of January, 1911, page 174, under the head "Panama." "The National Assembly of Panama has approved the contract between the Government and Mr. Frederico Barrera, by the terms of which the latter agrees to establish in the Province [772] of Cocle a sugar mill or factory, with all the machinery, draft animals, and other equipment necessary for a plant capable of working, during each crop, the total yield of sugar cane from a plantation of 250 hectares.

"The concessionaire agrees to cultivate sugar cane in 100 hectares within one and a half years from date of contract and to cultivate the balance of the 250 hectares within two and a half years; to admit into the plantation two persons, from each province in the Republic, who may wish to obtain practical information in the modern methods of the sugar industry, and to provide them, free of charge, with board and lodging; to build a postoffice and a schoolhouse in the plantation when the number of laborers there shall have reached 400, and to provide for car-

(Testimony of John Grant Lyman.)

rying of mail, free of charge, to and from the nearest port.

“On its side, the Government agrees to deed to the concessionaire, without any cost whatsoever to him, 500 hectares of unappropriated lands in the Province of Cocle for cultivation; to permit him to import machinery, apparatus, locomotives, rails, boilers, carts, building materials, etc., free of customs duties; and to recognize this enterprise as a public utility, and, as such, exempt it from national or municipal taxes for a period of ten years from the date on which the production begins.”

“From an article on page 290 by Mr. Bernard N. Baker: “One day, when I had the pleasure of calling in President Arosemena, a fine, sturdy looking American named Scott came in and requested an interview. He stated that he had been a shovel engineer, working on the Panama Canal for four years, and that he was from Huntington, Pennsylvania. During his holiday seasons he had returned home several times and found that he suffered [773] from the climate so much that he determined, if he could get some encouragement and the necessary land in the Republic of Panama, to make a permanent settlement. He and three other engineers with their families were in somewhat similar position, and had agreed to become permanent settlers in the Republic after the completion of their work. He had been authorized by them to visit the lands in the Northern part of the Republic with a view to making homes for themselves and settling there. He stated that he

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had made a trip to the north, to David, and found the opportunities there so encouraging that he determined to settle if he could secure the land from the Government on reasonable terms and also secure protection. After he left I discussed this question thoroughly with President Arosemena and he told me that such changes could be made in the laws as might be necessary, to allow Americans to own land in the Republic. The present law, I understand, prevents this unless a citizen of the Republic of Panama has the same right in the United States as a citizen of the United States would have in the Republic of Panama. He assured me that this law, he felt, would be remedied and the question covered by an act of the Assembly."

The foote-note says: "The National Assembly has since enacted a law permitting citizens of the United States to own land in the Republic."

"There are a great many important questions that must be considered. One of the most important at the present time is the proposed development of the country by railroad facilities. The Canal Commissioner, at the request of the Panamanian Government, has surveyed a line from Empire, a point on the Canal Zone to the town of David, about 290 to 300 miles, and only about 30 miles from the Costa Rican boundary." — (stars) — [774]

"Although the first section of 20 or 30 miles after leaving the *twon* of Empire would not offer opportunity for immediate development, yet after this has been passed to the northward, in the Province of

(Testimony of John Grant Lyman.)

Chiriqui, there seems from a study of the subject, a very great opportunity.

“The raising of horses and cattle has been remarkably successful. It is a fine, open country, with enormous areas of pasture lands, offering great possibilities in the stock raising industry. There are also in that section many large coffee plantations being successfully conducted by Americans. The opportunities in timber and lumber are also great. Already one American has established a mill for the manufacture of lumber and has built his home in the midst of the timber section and on the line of the proposed railroad. That the mineral resources are great has never been questioned, and the finding of a very large number of valuable gold ornaments in the old Indian tombs indicates that at one time this country must have produced large amounts of gold.” — (stars)

“Two young men from the States, and both of them from Baltimore, have started in a very energetic way, and I believe a very successful way, a plantation of 500 acres, situated on the east side of the canal near Panama, which they are now developing. They are now planting 100,000 cocoanuts trees, in addition to large quantities of banana trees, and clearing the land to raise alligator pears and vegetables of all kinds.”

“Naturally in selecting the route for the construction of the canal, the one through the lowest sections of the Republic was chosen.” No, that is for the

(Testimony of John Grant Lyman.)

Canal, too. Are these provinces northward of Canal, Chiriqui?

The WITNESS.—West.

Mr. SCHENCK.—On page 643, under the title “Cattle Raising [775] in Chiriqui”: “That portion of the Province of Chiriqui, lying on the Pacific side of the Continental Divide and extending westward from the Rio Tabasara, contains the richest lands in the Republic of Panama. Of this area, the choicest section is what is commonly goes by the name of the ‘Vicala Country’; including the districts of Alanje, Boqueron, and Bugaba. This superlatively fertile region is situated between David, the capital of the Province, and the Costa Rican border. There is no finer agricultural land that it in the world. Along its playas the *coco* palm thrives. A little *father* inland the admixture of sand in the deep stratum of alluvial soil, combined with climate and drainage, make such perfect conditions for the growth of sugar cane that the yield is as great as anywhere in the Tropics, although the fields are not irrigated, and tilled only in the most primitive manner. At somewhat higher elevations tropical fruits, tobacco, cocoa, and rubber flourish while in the mountain valleys the vegetables of the Temperate Zone and coffee of excellent quality are produced.”

“The country is admirably adapted to the pursuit of cattle raising. The land is covered by light forest, locally termed ‘monte,’ which may readily be cleared with the machete. At intervals this growth gives place to level expanses of grass coverellano,

(Testimony of John Grant Lyman.)

often several square miles in extent, dotted here and there with wild fig or other shade trees in small stands or solitary station. The prevailing herbage of the llanos is jenjebrillo, which bears a close resemblance to the famous 'blue grass' of Kentucky.

"The region is abundantly watered. Every few miles a river or creek intersects the forest, but in the dry season all but the largest of these fail. It is where the interval between streams is unusually great, say 7 to 8 miles, that the monte [776] gives way to open grassland. The slope of the ground and the *prosity* of the soil insure perfect drainage, and there is an entire absence of swamps, save for the inevitable manglare stripes along the coast.

"When the development of Chiriqui shall have fairly set in, irrigation will surely become an important factor in the agricultural industries. Good reservoir sites are plentiful and the lay of the land is perfectly suitable to the installation of simple, inexpensive gravity systems.

The climate of this section is subtropical and somewhat like that of Florida. The mean temperature is about 75 deg. Fahrenheit, and the extreme variations do not exceed 15 deg. in either direction. The heat of the day is usually tempered by breezes and the night is cool at all times." —(stars) —

"It is needless to say that after the opening of the Panama Canal the facilities of Chiriquian products for water transportation will be greatly increased.

There is but one point upon the Pacific littoral of Panama at which vessels can approach the shore at

(Testimony of John Grant Lyman.)

low tide. This is a sea hole about eight miles from Divala. It is sheltered by the promontory of Punta Burica and this lies in a natural harbor. A port could easily be established at Chorca Azul, or 'Blue Pool,' as the sea hole in question is called, and it would become the outlet for the exports of the Divala country and a point at which steamers could call without any unusual delay.

"A railroad has been surveyed from Panama to David and will without doubt be constructed in the near future. It is probable that this line will ultimately be extended to Bocas del Toro on the Atlantic coast.

"Stock raising is the principal industry of Chiriqui, and [777] there are in the Province more cattle than in all the rest of the Republic's territory. There cannot be more than 50,000 head all told, in Panama. Six or eight large ranches will account for nearly half the number, the remainder being scattered in small ownership.

"The domestic supply of beef falls far short of the demand. Large quantities are shipped from the United States to the Canal Commissioner, the markets of Colon and Panama, as well as to the depot of the United Fruit Company at Bocas del Toro. This concern has tried ineffectually to contract with ranch owners of Chiriquo for 200 head a month. About two years ago a representative of Swift & Company went through the Province with a view to determining whether it would be feasible to establish a packing house there to supply the canned beef trade of

(Testimony of John Grant Lyman.)

the west coast of South America. He soon determined that the available cattle would not keep a small factory running constantly. "Nevertheless, there is land in the Republic that would sustain 5,000,000 head of cattle. There is no better country for economical cattle raising. One acre of its potrero will fatten a steer, whereas 3 acres of our western grazing land is required to support one. But the soil of Panama has not yet been touched by a plow, and although cattle raising is the most advanced of the country's industries, the scope for improvement in the methods of conducting it is extremely great." — (stars) —

"There is public land available all along the proposed Panama-David Railroad line, but the best lands are in the Divala country, to the west of David. The trouble and expense of reaching the railroad from this section would, however, be slight.

"The expense of making potrero from monte will vary somewhat [778] according to the local labor supply and the character of the virgin land. At present the average cost, including fencing, is about \$5 per acre, with a tendency to rise, which will be accelerated by the increase of settlement. On the other hand substantial exconomics might be affected by the use of simple machinery.

"The ranch lands are inclosed with barbed wire, strung on live posts. Cuttings from the hog plum are set during the wet weather. These quickly root and display great vitality. They are cut back every year to a height of about 7 feet, but their branches

(Testimony of John Grant Lyman.)

are allowed to grow laterally, and from these a continuous supply of good straight fence posts is obtained."

Page 801 of the same volume, under the head, "Panama." "The Government of Panama has issued a call for bids for the construction of the Panama-David Railroad, with branch lines to Los Santos Province and the town of Anton, described in the February issue of the BULLETIN.

"The bids in the United States must be presented not later than 3 P. M. June 30, 1911, at any of the following consulates of Panama: 18 Broadway, New York City; etc."

"An important contract with the Government of Panama grants to Mr. Albert Vough, an American citizen, free of charge, 25,000 hectares of unappropriated public lands in the Chiriqui Province, between the Chiriqui Riejo River and the boundary with Costa Rica, for the establishment of a colony consisting of 500 American families. The concessionaire agrees to build, at his expense, roads and bridges necessary to afford the colony convenient communication. The land granted shall be divided into two equal parts, between which a town is to be built. All machinery and materials imported for the colony shall be exempt from customs duties." [779]

That last article was in the April, 1911, book.

Mr. SCHENCK.—(Addressing Witness.) Look at this book, and see if that is the edition of Forbes Lindsay's book that you were speaking of?

A. That is the book.

(Testimony of John Grant Lyman.)

Mr. SCHENCK.—This book I also obtained from the Los Angeles Public Library, being “Panama and the Canal today” by Forbes Lindsay. I only want to read one part of it here—possibly not all of that. Chapter 7, commencing page 326.

Mr. SCHENCK.—(Reading:.) “This peculiar formation of the territory insures two great advantages; either coast is easily accessible from any point in the interior and the entire area might be brought within the scope of a railroad more *radily* than the domain of any other nation in the world. Surveys for such a road to extend from Panama to David, in the Province of Chiriqui, have been made and the Government has contracted with the Panama Railroad to build it.

“Two thirds of the area of Panama is forested with trees of valuable wood, the Atlantic side of the divide and the Province of Darien being the most thickly covered. On the Pacific slope, where the rainfall and humidity are less, the forest is more open and the growth of small dimensions. On this side, too, the drainage is better and there are fewer swamps and a less extent of mangrove thicket along the shore than upon the Atlantic coast.”

Mr. SCHENCK (Reading).—“The rubber tree is found wild in every part of the country and the species called Castilla will thrive anywhere, if planted under proper conditions and provided with the shade essential to its healthy development. At one time, large quantities of rubber were shipped from [780] Chiriqui, but, as it was gathered by the old native

(Testimony of John Grant Lyman.)

methods of cutting down the trees, and replanting was neglected, the valuable stands of the Province disappeared and now the trees are to be found only in scattered specimens, which, however, exhibit a vigor that indicates the results to be expected from scientific culture. — (stars) — Chiriqui, the richest and most important province from the agricultural view point, has fewer than 100,000 inhabitants. The indians cannot be counted on *the* meet the demands of labor and only a small proportion of the Panamanians are available for hire. Extensive immigration must be induced and, fortunately, an immediate source of supply is at hand. There are thousands of hardy Spaniards and Italians engaged on the Canal who will shortly be released. It is probable that a large proportion of these will be glad to remain in the country and take up land. They make excellent farmers, and will furnish a desirable new element in the general population.

“There is nowhere in the world richer land than that of the Republic of Panama, and the Pacific section of the Province of Chiriqui surpasses all other parts in fertility of soil, salubrity of climate, scenic beauty and conditions adapted to agricultural pursuits. The District of David is an ideal farming country. From the coast, the land gradually rises to the mountains, about forty miles inland. Stretches of monte alternate with large tracts of gently rolling llano, reminding one of the famous ‘blue grass’ country in the neighborhood of Lexington, Kentucky, and covered with a thick mat of simi-

(Testimony of John Grant Lyman.)

lar grass. Frequent streams and slumps of forest lend diversity to the landscape which has an ever-present background of mountain peaks whose heads penetrate the clouds. Finer land for cattle raising it would be impossible to imagine. The [781] llanos furnish ample range of the best kind and rich potreros, filled with heavier growth, are fenced in upon the bottom lands."

Speaking of Chiriqui again: "Throughout this section the top soil is six feet or more in depth and of marvelous fertility. This extreme richness accounts for the fact that cultivation is entirely neglected. The natives cut down the monte and burn it where it lies. The ground is then ready for planting. The surface is scratched with a *machet* and seed dropped in. The crop is then allowed to take care of itself. There is no plowing, nor rooting; no weeding nor pruning. And, despite this haphazard method, the resultant crops are such as few parts of the earth can produce under intense cultivation. Sugar cane has been harvested continuously for fifteen years from the same field without replanting and the yield weighs eighteen pounds, and sometimes more, to the stalk. There are patches in Chiriqui where Kaffir corn has been grown continuously for twenty years, without attention, and fine potatoes are gathered from ground sown fourteen years ago. The tobacco plant is neither topped nor trimmed, it is hung in a hut to dry, preparatory to shipping. Scientific curing it is quite unknown; nevertheless, the leaf compares favorably with that of Pennsyl-

(Testimony of John Grant Lyman.)

vania, for instance. There is every reason for believing that with proper management, a high grade of tobacco can be raised in Chiriqui and not improbable that an excellent wrapper leaf may be grown under cover.

“*Coffee* grows wild all over the Pacific coast region. Its systematic cultivation is limited to the Boquete Valley on the southern slope of the Volcan. The industry is in the hands of a few Americans and Englishmen who are producing a bean of superlative quality, which sells for fifteen cents gold a pound in Panama. Trial shipments to New York brought the highest [782] prices but, since the output is far from equaling the domestic demand, there is no inducement to export. Cacao thrives without extraordinary attention, and is not subject to the wind storms which cause so much damage to plantations in other parts of the world. Little effort has been devoted to the cultivation of this valuable crop and only one plantation is maintained under proper management. The owner of this always secured the best price for his product in the London market. A short fibre cotton grows extensively in Chiriqui. Small quantities of it are exported and sell at good figures owing to the excellence of the quality. Fibre cultivation has not yet been entered upon, although many parts of the country are well adapted to the growth of such plants, and several species of commercial value are found in a wild state. Specimen fibres sent to England and Germany have been pronounced by experts to be stronger than hemp.

(Testimony of John Grant Lyman.)

In short, tropical plants of all descriptions, as well as many peculiar to the temperate zone, thrive in Panama. The varying character of the land, with its different soils and altitudes, makes it possible to raise the greatest variety of crops in a comparatively small area. For instance, on a strip running back 25 or 30 miles from the Pacific Ocean, along the shore, fine playa furnishes the best possible ground for cocoanut plantations. Back of this is excellent sugar land. Still farther back, fibew, and rubber thrive. And so, in succession, tobacco, *cacao*, coffee, and in the higher altitudes the vegetables of the temperate regions. Along the Costa Rican border is a belt of tropical fruit land as rich as any in the world. While oranges, grape fruit, mangos, pineapple, papayas, etc., grow wild in different parts of the country, they are not cultivated, and large quantities are imported from Jamaica. [783] Even the supply of bananas, of which the consumption is great, is not met by the native production.” — (stars)

“The Republic of Panama presents a splendid field for the investment of American capital and the application of American energy and enterprise. — (stars) — The Government is disposed to offer every encouragement to American settlers, and corporations may depend upon liberal treatment and the utmost security. — (stars) — The Panama Canal will bring the world’s markets within easy reach of various products of this section. Its sugar and its cocoanuts, to mention only two of the

(Testimony of John Grant Lyman.)

most assured exports, will find a ready sale. — (stars) —. On the other hand, I can confidently assert that to Americans anxious to engage in agriculture Panama offers splendid opportunities. Viewing the territory from the latter stand-point, a large *proposition* of it is *excluded* from consideration, leaving, however, a section sufficiently rich and extensive to support several millions of inhabitants.

“Such is the belt of land extending from the Canal Zone to the Costa Rican border, roughly stated, 250 miles in length by 40 miles in breadth. This is the only portion of the interior that contains any considerable population, or in which any degree of development has been attained. In both these respects the section comprising the Districts of David, Bugaba, and Alanje, is far in advance of other parts of the country, and must, by reason of its superior natural advantages and industrial facilities, be the seat of the earliest and greatest development. With an extensive experience of tropical countries, I declare unhesitatingly that there is nowhere in the world a region richer in natural resources than this. Furthermore, it has the characteristic, extremely rare in the tropics, of a climate devoid of excessive heat. The mean temperature [784] is *womewhat* below 80 degrees and the extreme fluctuations do not *cary* from this more than 10 degrees. This applies to the coastal regions; the highlands enjoy cooler and less humid atmosphere. — (stars) —. Sufficient rain falls to keep the vegetation green and insure fresh good and abundance of water for the live

(Testimony of John Grant Lyman.)

stock. The rainy season extends over eight months of the year. The rainfall takes the form of heavy showers, seldom lasting longer than an hour at one time, or covering in the aggregate more than four or five hours of the twenty-four. It is only at the end of this term that the downfall is great, and during August and September Chiriqui is visited by a return of typical summer weather lasting for a month or six weeks. The lay of the land and the nature of the soil create perfect drainage. The water runs off the surface in an incredibly short while after a down-pour and nothing like a swamp exists in all the region under consideration." — (stars) —.

"I have no hesitation in declaring that no country in the world holds greater promise for corporate enterprise, in a variety of direction, than does the Republic of Panama. The prospects for individual American immigrants must be stated with some qualifications. Any American of good character may go to Panama and secure title to a considerable tract of public land at a cost of five pesos—equal to \$2.50 in United States currency—per *hectare*, on condition of fencing it and reducing it to cultivation within five years. The cost of clearing will be 20 pesos per hectate, and of general labor, one pesos per day. Thus a man with \$1,500 may take up and improve 50 hectares, or about 125 acres, of land, and a very moderate knowledge of farming will *suffice* to insure good crops. But the question of marketing the product involves less simple considerations. Very little public land is available along the [785] existing

(Testimony of John Grant Lyman.)

lines of communication. It is not necessary, however, to resort to the settled districts in order to secure good land. The richest in the country is generally believed to be that beyond Divala and Bugaba, the outposts of settlement, and the Costa Rican border. But in this frontier region, otherwise most desirable, two serious difficulties will be encountered by the settler of moderate means—those of transportation and labor. To a company undertaking development in this section the expenditure of, say, \$5,000, in the construction of roads and the importation of laborers, would be a small matter, but to the individual, with comparatively little produce to send to market, the expense would be prohibitive. It is safe to predict that in ten, or fifteen years time, this entire territory will be covered by a network of highways and dotted with villages. In the meanwhile, I would suggest that Americans with small capital settling in Panama should form colonies, which would insure advantages besides that of pooling the expense of road-making and securing labor. A still better plan would be to occupy land on, or near the property of some development company—of which several are projected—and take advantage of its facilities for marketing produce and attracting labor.

Of course, the quick crops, *wuch* as sugar cane and tobacco must be the mainstay of the small farmer. But, by putting a portion of his land into an orange grove or a cacao plantation, he may, in the course of seven or eight years, create a valuable property. Almost anything that he may raise will, under the con-

(Testimony of John Grant Lyman.)

ditions that have been suggested, be salable at a profit.”

Q. Other than that “Gateway of Opportunity,” Exhibit 45, how much of this literature did you write or compose? [786]

A. There is a small book there, Exhibit 48, I wrote it all.

Q. Defendant’s Exhibit “A” and Government’s Exhibit 48, you wrote all the contents of that?

A. I think so. I either composed or approved everything that was printed in the way of literature, and all that has been introduced here in evidence. This circular U. S. Ex. 70—was written by Mr. Smith, who submitted it to me and I had it copied. I did not object to the facts as stated, but I did not like the expression. I saw that he was offended so I let the circular go as it was. The facts regarding the land are correct; it was only the style that I objected to. He composed it and submitted it to me and with the exception of the criticism which I afterward withdrew, he had all to do with it.

Q. Did you have any conversation with Mr. Smith or anyone else who wrote advertisements, with reference to what the circulars or literature should contain?

A. I just said this—no literature should go out except that based on the Pan-American bulletins and Forbes Lindsay’s book.

Q. What is the source of information with reference to timber at Veraguas?

A. The Pan-American Bulletins. I had a conver-

(Testimony of John Grant Lyman.)

sation with both Victor Morrow, who went to Panama, to David through the interior country, and from Dr. Hale, who had also made the same trip. It is supposed to represent the timber resources of Panama without any regard to the different sections.

Q. Explain in regard to those pictures, where did you get them and how you came to get them?

A. Those pictures represent all that different timber that is found in Panama, and it is found in every district in Panama [787] Victor Morrow informed me that he had been to a place about 12 or 15 miles—of Montijo Bay, where he had found an ideal location for a sugar plant. It was covered with heavy timber,—that that timber could be taken off by gravity tram, and the expense of development would be more than met by the cost of the timber. I was not particularly interested in timber. And when I went to Washington and saw Dr. Hale, I detailed my conversation with Mr. Morrow—and asked his particularly regarding the timber in Veraguas, and he thought that it could be handled in the way suggested. Dr. Hale informed me that there was fine timber through all the provinces, but more in Darien, and he said the department there had furnished a lumber concern with a lot of pictures of the Panama timber, there was in Milwaukee a lumber company, I think, that was operating in Darien, and I believe these pictures had been put in their prospectus. He said if I could get those, that would show me all the different styles of timber in Panama, and that was the idea of that circular, to show the timber re-

(Testimony of John Grant Lyman.)

sources of Panama, and in Veraguas.

Where I got these pictures I don't remember. I also had some of those pictures at Washington and some of them were framed in the office. I think there are some of those pictures in Forbes Lindsay's book. There are some in Mr. Edwards' book. I approved the stationery that has been introduced here.

Q. Showing you Government Exhibit 66, was that contract of agreement drawn up by you?

A. I could not say. I can only say that it was submitted to me, and I approved of it. I can't say that I ordered the advertisement, Government Exhibit 182, to be put in the Los Angeles "Examiner," or not.

Mr. Smith brought Def'dant's Exhibit "J" for identification to my office. My impression is that Mr. Smith wrote a letter in [788] answer to it. I don't think I did. As to the sheet on the back end of the letter, I can say it is not my dictation. I don't know who dictated it, nor do I know whether or not it was signed. I do know something more about this. I received that letter in the due course of business.

(The said letter is marked Defendant's Exhibit "J," is read in evidence, and the following is a copy thereof:)

**Defendant's Exhibit "J"—Letter July 30, 1911,
J. R. Thomas to Panama Dev. Co.**

“Boquete, Prov. of Chiriqui,
Rep. de Panama—
July 30—1911.

Panama Development Co.,
216 Mercantile Place,
Los Angeles,

Gentlemen:

Through my brother in law E. E. Simmons of San Francisco and friends in Los Angeles, I have received copies of your various advertising matter.

As you seem to be thoroughly interested in Chiriqui property, thought you might find it convenient to invest in or find a purchaser for one of the finest properties in Chiriqui. It consists of a hundred hectates of land more or less, large dwelling house, 55 ft. x 25 with large verandas, story and a half, large commissary building with about \$4,000.00 (gold) stock of general merchandise, 25 head of milk cows—50,000 bearing coffee trees, coffee machinery, dry house, portreros, house completely furnished in American style, piano, phonograph, washing machine, etc., creek running by front door, a home in every sense of the word.

Myself and wife have lived here for 16 years, and are known by everybody.

Your Mr. Quelquejeu and Mr. Guardia have visited us in our home and know Boquete fairly well and I refer to them as to the truth of my statement, as well as all the old residents of David and Panama.

We have very good reasons for wishing to sell, private reasons know to everyone here.

The price of this property is \$30,000.00 gold.

Will begin picking coffee in October so that any one buying before that time or soon after would profit by the crop. If it were necessary I could make a trip to Los Angeles, but would want to be sure that the result would pay me.

I am thoroughly posted in this country, its possibilities, soil, climate conditions, difficulties, also its history, past and present.

Hoping that you can find it convenient to take hold of this matter in one form or another and if not to let me hear from you,

I am yours very truly,

J. R. THOMAS.

Boquete Coffee & Com'l. Co.

J. R. Thomas, Manager—

**Defendant's Exhibit "J"—Letter, August 26, 1911,
Panama Dev. Co. to Thomas.**

August 26, 1911.

Mr. J. R. Thomas,

Boquete Coffee & Com'l. Co.

Boquete, Province of Chiriqui,

Republic of Panama, Panama. [789]

Dear Sir:—

Replying to your favor of July 30th, we believe we could find a purchaser for your coffee plantation if you would give us a little more particulars regarding the earnings, as well as the age of the trees—in short—all such particulars as a prospective buyer should have.

(Testimony of John Grant Lyman.)

We note your price is \$30,000 for the 250 acres, and we take it from your letter the trees are 16 years old, but what your net return per year is, you do not mention, and that is very important.

Please let us have these particulars at once and we will see what we can do.

Is there any raw land near you suitable for the planting of coffee trees, and if so, what is its cost? Do you have to irrigate and how long is it after the trees are planted before they yield their first crop? What does it cost per year to take care of trees?

Thanking you in anticipation, we are,

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

By _____.

[Endorsed]: 672—Crim. U. S. v. Lyman. Defendant's Exhibit "J," for identification.

Q. Now, then, after that letter was handed to you by Mr. Smith, or at the time it was handed to you, was this carbon on there?

A. My impression is that I was not in the city at the time that was written. I heard about this property when I was in San Francisco. I was in San Francisco and while there I talked with a Mr. De Soto, who had been here to see me in regard to buying an interest in the Panama Development Company and who had been all over Panama and was one of the civil engineers that helped survey the Panama-David road. That was the first week that I got into San Francisco. I think it was a friend of his that

(Testimony of John Grant Lyman.)

came to see me regarding this property, and he had data as to the earnings which, if I remember rightly, were \$8,000 a year, and that he would give a three months' option. And one of the things I wanted to know particularly, was the amount of Government land around there, and he said there was a large amount of Government land which was quite as good as the land under cultivation, but that it required eight [790] years to bring a coffee grove to maturity so as to have a paying crop. That information I sent down here in some letter that I wrote to Mr. Redpath. That is, a copy of what was supplied to me.

Q. Did you have any conversation with Mr. Smith with reference to inserting or causing to be inserted the advertisement as to the sale of that?

A. I do not recall that I did. His first advertisement appeared in the classified column and was something much smaller than this. It appeared some little time before that.

Q. Now, then, the second advertisement referring to the coffee plantation, being Government's Exhibit No. 183, which referred to the advertisement that was set forth in Exhibit 182, calling attention to that, I will ask you if you have ever seen that before, until you saw it here in Court?

A. No; I certainly did not. I did not have anything to do with it in any way, that is, by asking that it be done, or writing it or causing it to be inserted. I did no more than send the typewritten letter down here and that might have been inspiration for it. I

(Testimony of John Grant Lyman.)

don't know whether I saw U. S. Exhibit 118 after it was dictated or not.

Q. Had you anything to do with the composition of U. S. 119?

A. No; I know it is Mr. Smith's dictation. I told Mr. Smith that I did not like the style of the letter. He was rather offended at my suggestion, and I didn't say very much more than to object to the style of it. I never directed anyone to send that out, or anything like it.

Q. Take United States Exhibit No. 120, and state what you know about its coming into existence and by whom.

A. I have not the remotest idea. I can't say that I ever saw any of them prior to coming into the court here. I have [791] read those letters over, here, all of them, and it is hazy in my mind whether I saw that letter. I did not compose it, or have anything to do with the composition; those mimeographed letters were prepared by Mr. Smith.

That letter U. S. Ex. 122 I never saw. I believe it *letter* was written after I left.

Q. I call your attention to one portion of that letter reading as follows: "In this development we are acting as Government agents, and applications placed with us will have the same force and effect as though lodged directly with the Government in Panama, and obviates the necessity of your making a personal application there." I will ask you if you ever at any time told any employee or prospective purchaser or anyone else that the Panama Develop-

(Testimony of John Grant Lyman.)

ment Company or that you or any one connected with the Panama Development Company, or with you, was acting as agent of the Panamanian Government in the matter of selling land? A. Never.

Q. Did you ever have any conversation with any one where the question as to whether you were or were not acting as Government agents was the subject of discussion?

A. Yes, sir; with Mr. Smith.

Q. Did you ever have any discussion with any one else at that time and place, either employees or prospective purchasers, with reference to whether you were or were not Government agents?

A. Never. That conversation with Mr. Smith about being Government agents occurred, I think, about the first or second interview I had with him, whether or not I had any connection with the Panamanian Government, and I told him absolutely none; that the land should be taken under a power of attorney and located [792] the same as Government lands might be taken in this country, and the only connection with the Government would be through Mr. Guardia, who held some official position and who assured me that because of his connection, he could get the most desirable lands. That is the only discussion I ever had with any one as to being Government agents.

Q. And here is another circular or mimeograph letter, Government's Exhibit No. 123, which seems to be similar in composition except in using the English money terms instead of United States money

(Testimony of John Grant Lyman.)

terms, and I will ask you if you ever saw that before, or any one similar to it?

A. I never saw that letter before, and the statements therein contained about the company acting as Government agents never came to my knowledge. There was a great deal of matter taken from the printing and just changing the phrascology.

Q. Did you at any time with any agent or employee or person connected with either you or the Panama Development Company, represent and pretend and claim to any one else that the company or that you were acting as the Government agents in the matter of sales of land?

A. I absolutely did not.

Q. Did you at any time receive any written communications directly from Mr. Quelquejeu?

A. I did; two or three. I did not receive any written communications directly from Mr. Fearon, or Mr. Vallerino, the attorney.

I did not have anything to do with the composition of U. S. Ex. 126 nor any conversation with Mr. Smith, or with anyone else about causing it to be brought into existence. These mimeographed letters that I have been shown here, that was Mr. Smith's idea. I knew that he was sending out mimeographed letters; to what extent I did not know. [793]

Q. Take United States Exhibit No. 127, what would you say as to whether you dictated or composed it?

A. It is not my letter. I don't recall if I ever read

(Testimony of John Grant Lyman.)

any such letters in or about the office of the company. I had nothing to do with that, United States Exhibit 128, and the statement in this letter substantially the same as in 122, that the company was acting as Government agents, I will say that I never saw that statement until I saw it in the indictment. I never saw a statement in connection with any of the literature or statements made by anyone connected with the company, to that effect, until I saw it in the indictment, as to being a Government agent.

Q. Now, then, do you know, as a matter of fact, actually how much money was taken in by the Panama Development Company?

A. Only from the accounts of the company, which I saw here for the first time.

Q. Do you remember seeing that note here for \$23,000, issued in your favor, a promissory note?

A. I do. I remember the execution of that note. I talked with Mr. Smith and Mr. Redpath about the execution of that note about the time it was issued. I suggested that the note be given to me for the amount of money that I advanced to the company and that was coming to me; that the probabilities were that the company would make a large sum of money through the sugar company, and I wanted to be in a position to get my money promptly; and that I thought I could get it better by having a note of that character, rather than having it on the books of the concern. There was no objection by either of them. It was quite agreeable, and they gave me the note.

(Testimony of John Grant Lyman.)

Q. Mr. Redpath, on the witness stand, said that there was absolutely no consideration for that note.

A. My vouchers will show different. The vouchers have [794] only been shown in part here. I did not tabulate them, because there were so many missing. I think the First National Bank could give a transcript of my account.

Q. Calling your attention to Government's Exhibit 72, being the statement headed "Bradstreet's," I will ask you if you ever saw that or a similar statement before till you came to court?

A. I don't know whether I have seen this exactly, but the main features I saw. I saw a copy of United States Exhibits 70 and 73, being the tabulated statement of resources and liabilities of the Panama Development Company, after it had been sent out. I did not furnish any information to any one with reference to what the statement should show, because I didn't know.

Q. This letter says, "Referring to your representative's call, requesting particulars regarding the items on our balance sheet, copy of which was submitted to you recently, would say that the mortgage mentioned in the first item covers 320 acres of oil bearing lands in the basin of Wyoming, which land is conservatively estimated as worth \$100 an acre." Do you know anything about the truth of that statement?

A. I don't remember the number of acres, but I know there was a mortgage of \$5,000 issued in favor of the Panama Development Company. I saw that

(Testimony of John Grant Lyman.)

mortgage in the office of the company; I can't remember the exact date, it was sometime during the summer of 1911 when I was looking over the papers. I knew the mortgage had been taken. Mr. Smith had an interest in the Basin Oil Company of Wyoming, and so did I, and we anticipated doing considerable development up there and were going to do that business through the Panama Development Company, and I believed there was an advance to the Basin Company by the Panama Development Company and a mortgage was given to cover those advances, [795] and that is the mortgage I spoke of. There was a note with it. I never looked at their statement, so I know nothing about the correctness or incorrectness of it at that time.

Q. "The third item under 'investments' refers to \$15,000 advance to the Panama Sugar Estates, Limited, which has an authorized capital of 500,000 lbs., divided into shares of \$5 or 1 lb. each, which company was organized to develop 50,000 acres of land in the Province of Cocle, Panama. This Company has received 30,000 fully paid shares of 1 lb. each in return for this advance of \$15,000. The shares of the Panama Sugar Estates, Limited, are now being sold in England at 4 shillings each." I will ask you if you know anything about the correctness of that?

A. As far as I know, that was strictly correct. The capital stock of both these companies was issued to the Panama Development Company in exchange for the contract whereby they were to have 50,000 acres each—

(Testimony of John Grant Lyman.)

Mr. SCHENCK.—Do you know where the contract is?

A. I have not the remotest idea. They were all there at the office in Mercantile Place. The Panama Development Company were the promoters of the Sugar Estates Co., Limited, and the Tropical Products Co., Limited. It was a vendor company, and $\frac{3}{5}$ of the capital stock of both companies was set aside as the working capital, of both companies. The contracts were identical with each company. Mr. Redpath and Mr. Smith were on the executive boards of both companies, and were authorized to enter into contracts with both companies for both companies. This \$30,000 represents 30,000 shares of each company—of the vendor shares—which were issued on the basis of 10 shillings each. That is, 15,000 to each company. There was 60,000 shares each. That is, 15,000 to each company. These were vendor's shares and could be sold at a discount, and would [796] have provided \$30,000 without any question.

Q. The statement to Bradstreet's, "This company has also made an investment of a like amount in the Tropical Products Company, Limited, on the same terms. This latter concern is to develop a large acreage to cocoanuts and bananas, and there is every reason to believe both companies will prove marked successes, as they are in the hands of thoroughly capable men, who have made a success along similar lines." Did you have anything to do with the composition of that statement?

(Testimony of John Grant Lyman.)

A. I can't say that I did.

Q. Do you know anything as to the correctness or incorrectness of it?

A. I know this; Mr. Ryan had charge of 8 square miles for the United Fruit Company, and he had gone down there and was to select sugar lands at Agua Dulce, for this Sugar Company, and he was also then to take up the Tropical Products.

Q. (By Mr. SCHENCK.) What is the next item on that?

A. Bills of Exchange and cash advanced, \$10,000.

Q. Now, "Regarding the next item, bills of exchange and cash advanced, that refers to advanced made our agents in Panama and later will be represented by purchases of land and property now in the way of sonsummation." Do you know anything about the correctness of that statement?

A. Yes, sir; that is quite correct, and that is all covered by vouchers of my own drawn on Parr's Bank, London, or the Plaza Bank, of New York City. By advances made by me, I mean they were disbursements to Pollinger, from me to Mr. Pollinger and myself on behalf of the Spanish Land Grant, on which I had taken an option contract to purchase—disbursements to the extent of \$10,000. I can't remember the exact date, but the payments were some time in May. I had an account at the [797] Plaza Bank at that time, and at Parr's Bank in London, with the American Express Company, London, and with the British Investments Underwriting Company, the Night and Day Bank in New York

(Testimony of John Grant Lyman.)

City, and with the Knickerbocker Trust Company.

Q. Since you have been incarcerated, have you ever found any of your vouchers and bank books on those banks?

A. Everything was taken from me. I have not seen a scrap of paper that was in my office at 433 Consolidated Realty Bldg., I have seen a very few here, I had two hundred pounds of stuff at in San Francisco, and there is only about three pounds produced here. I have only a very few of my stubs, or checks, or vouchers on those banks. I have searched through the few that I have had access to to see if I could find them.

Q. Did you have any discussion with anyone about these or any of these documents we have just been talking about, to wit: Government Exhibits Nos. 70, 72 and 73, either before or after they were made up?

A. My recollection is I went into the office and Mr. Redpath told me that the Mercantile Agency had made an application to me for a statement, and showed me a copy that he had sent out.

Q. Now, then, it has been testified here that at San Francisco you registered under the name of *Lunsey*. Is that true, or not? A. It is true.

Q. What was your object in doing so, if you had one?

A. Mr. Woodward of the St. Francis is an old Waldorf-Astoria man and knew me for years. The head waiter there had formerly been my table waiter there, and there were a lot of other employees that knew me well. I had been a very free spender, and

(Testimony of John Grant Lyman.)

as I was going to dispose of some automobiles, I did not want them to know how hard up I was. The manager of [798] the hotel—the clerk might not have known—he knew at the United States who I was, and everybody around the St. Francis.

Q. With reference to the testimony of Mr. Byrd, about his going out to your house, do you recollect the circumstance of sending him out there? And the conversation? A. Yes, sir.

Q. What was the conversation?

A. That I had a good cook and I didn't want to lose her, and that there was a lot of valuable silver ware and linens in the house, and that I thought it was advisable to have someone in the house while I was away. I asked him if he would go. I knew that he was married and that his wife would probably be in the house all the day, and I told him all the bills would be paid and I would appreciate very much if he would go and he said he would go. I think I told him if anyone came there to say that I had some domestic trouble and was away.

Q. I call your attention to Government's Exhibit No. 86, being a letter dated Los Angeles, California, August 25th, 1911, headed "John Redpath, Los Angeles, California," and not signed, but about which there has been some testimony. I will ask you if you ever dictated that letter?

A. I never did dictate U. S. Ex. 86; nor did I have any conversation with Mr. Redpath upon the subject matter of this letter. I was not in the habit of writing Mr. Redpath. I saw him every day. I

(Testimony of John Grant Lyman.)

never wrote a letter from one office to the other, or in the same office. I do not remember writing a letter to him while he was in the city and while I was in the city.

Q. Did you at any time dictate letters to Miss Clark?

A. Only in the first five days and a half, and I caught her copying a letter written to a woman member of my family [799] when I returned unexpectedly, and I promptly discharged her. I can't say when it was that she was first employed by me; it was some time in May. She was only there five days and a half, and while there was nothing in the letter she was copying, I did not care to have a stenographer that was so curious as to that sort of a thing, and I discharged her. She carried her notebooks away, and I discovered it and I wrote her a sharp note asking her to return them, and she did. She complained that she could not afford to be out of a position. I did not care to deprive her of a place, but I could not keep her. I told her to see Mr. Smith. I told Mr. Smith about my experience, and he said he had no private correspondence, and if he liked her work, he would keep her. I never spoke to her any more. I am positive that I never dictated to her after she left.

Q. Did you know Mrs. Cholwell?

A. I did not. I did not know whether she did have a bungalow at Alhambra, 1224 Commonwealth Avenue. I don't know whether there was any such person or property.

(Testimony of John Grant Lyman.)

Mr. SCHENCK.—It says here, “You might say to them that you are familiar with the property, having been out to Alhambra a good many times, and know the district, which you regard as a very good one, but as government agents, are not allowed to exchange for anything but clear property.” Did you ever have any conversation with Mr. Redpath or with anyone else wherein was *was* stated anything about government agents not being able or allowed to take mortgaged property?

A. I most emphatically did not.

Q. Did you ever see any letters, or do you know of any letters having been dictated by other people over there besides Mr. Redpath at the 216 office?
[800]

A. They all dictated letters there.

Q. (By Mr. SCHENCK.) Do you know Mr. Morley?

A. I do. He is the gentleman who appeared here on the stand and said he was a guard with me at Klamath Falls. I have seen him in the county jail here. I think it was one Friday afternoon after I had gone over from court here for luncheon; it was during the course of this trial. I had a conversation with him both outside of my cell and inside.

Q. Was anyone else present?

A. There was someone else very close; it was E. G. Edmonds. He is a postoffice clerk serving 60 days in the county jail; his cell was rather close to mine. There was also a Mr. S. P. Strong, an inmate.

Mr. SCHENCK.—State what happened over there.

(Testimony of John Grant Lyman.)

A. He said he would like to speak to me and he came into my cell, and he said he had nothing but the best of feelings for me, that he didn't know why he was brought down here, but he felt that he could do me some good and that if I would kick through with \$100 his testimony would be very easy. I told him I wouldn't give five cents, and he could go and say whatever he cared to say.

Q. You heard his testimony with reference to what was supposed to have taken place at Klamath Falls while he was your guard and keeper. State whether anything was ever said by you at any time or place to him with reference to \$2,000 or any other sum, and getting a half hour's start, or any other start.

A. No, sir.

Q. Do you care to make any explanation?

A. I would like to explain to the Court what occurred up [801] there. The day I arrived there was a jail delivery and I was one of those that did not go, and Thonnet was one of the five who did, and I was given every privilege; I was allowed to stay outside every day and allowed to go to the book store and buy books, and finally I was transferred to a hotel and allowed to sit in front of the hotel and was given the freedom of the town. I was allowed to go to the barber-shop and have my bath. I only stayed in my room when I cared to during the day, and Mr. *Morely* was with me three days, and one day he pointed to a barn that was over about 300 yards and he said, "If you will give me \$500 I will put you in that barn and bring you food and see that

(Testimony of John Grant Lyman.)

you are well taken care of for a couple of weeks, and you can get away from here." I told him that I had enough, and didn't care for anything more of that sort; that I had already had an opportunity to escape without any payment and with 8 or 10 hour's start, and that if I did not accept that, I certainly would not consider anything else.

Q. Was there any other conversation between you and Morley about your escape or his aiding you to escape, other than you have testified to? Up to Klamath Falls?

A. Only that he suggested a number of times that I was foolish not to accept his offer.

Q. Now, with reference to the conversation between yourself and Lynn and Quinton Johnson, who has testified here—with reference to some money being used to gain your freedom, do you remember the conversation I refer to, that has been testified to here?

I was downstairs where visitors are received, talking with Mr. Lynn. This Mr. Johnson was visiting someone there, and he stepped up to me and said he was a friend of Mr. Regan's, and would like to secure my bond for me, which he [802] would be glad to do for a consideration. But, none the less, I listened to him. I told him the efforts I was making to procure bail. I said, without question I could get it. And I said if I could get up to San Francisco, I could undoubtedly raise the money, but that I couldn't do anything here; that there was a party here who would be willing to help me to extent of

(Testimony of John Grant Lyman.)

several hundred dollars if I could get out and go up to San Francisco, and he suggested that he was an Elk and that his influence with Mr. Regan was such that he felt with proper inducements in the way of funds for plenty of deputy marshals, he could arrange my trip to San Francisco. There was absolutely no question about bribery of Mr. Regan.

Q. When had you made up your mind to take that method of getting away or any method of getting away?

A. Well, I couldn't say because I didn't know that an opportunity would present itself. The desirability of it might, but the possibility of it had not occurred to me. I didn't have any arrangement with anyone to meet me in an automobile or any conveyance at any place, nor neither did I see any one.

Q. What were your reasons for attempting to escape at that time?

A. I made considerable sacrifices to raise money for Mr. Smith, and I felt that if I didn't send money to him that the Panama Development Company would collapse and I would lose all that I had put in and there would be a complete collapse if I did not get out and get it to him. I did not feel at that time that there was anything to this charge whatever. The idea of being arrested never occurred to me, and I thought if I could get away to send him that money that would be the end of it. It had occurred to me that it would be very desirable if I [803] could do that. Whether I could or not is something I couldn't say. The opportunity came very unexpect-

(Testimony of John Grant Lyman.)

edly. He had his face buried in the glass, the door was open, and I had a chance to dodge out.

Mr. SCHENCK.—How many days after that was it that you did actually escape from Providence?

A. I think it was ten days. I had been in the hospital perhaps a couple of hours when a male nurse came in and I did not recognize him, and he called my attention to the fact that I had seen him in New York. I did not remember his name. He said that he had read of my escape, and he came there to see if he could not help me, and said that he would try and get me away from there; and I said to him, "Well, whatever you do will be satisfactory to me." He asked me regarding the guard whom he had gotten out of the room on some—to go to the telephone; and I told him not to let the guard know that he intended to escape, that I did not think he would permit it. That was all that was said at that time. I had very little opportunity to talk to him. But he told me, I think, a day or two later, that he had everything arranged. I had talked with Mr. Court-right, the guard,—and he had told me about taking the previous patient out for an automobile ride, and I suggested to him that we go out for an automobile ride, and he was agreeable to that. When the opportunity presented itself, I told Thonnet that he was willing to go for an automobile ride, and he said—Thonnet told me that he had a car that he could use. He did not tell me that he was going to rent the car or had rented one. So it was arranged that we should go down Thursday night to stop at this

(Testimony of John Grant Lyman.)

house. Thonnet ran me down in the elevator. I was crippled so I could not walk very well except with crutches. And we got down and [804] outside to his car, and the three of us got in the car, Thonnet in front and Mr. Courtright and myself in the rear. We went down to this house, and we went in, and one of the girls there invited Mr. Courtright into the room. I had gone into a rear room with another, and when he went into this room the door was closed,—I went out a side door there which led out into the yard, and went around in front into the hallway again, and then out the main door unto this car. Thonnet told the driver to go to where he had left a bag, and where the fellow was paid \$50 for the car. And we went to Sacramento that night.

Q. What was your reason for escaping from the hospital?

A. Well, I felt that unless I could get away and could send Smith the money which I had promised him and could continue on the business of the Panama Development Company, it would collapse, and I had considerable stake in it, and I had a far greater stake in prospect, because I anticipated making a large sum of money out of the sugar company.

Q. You heard the testimony of one of the jailers from Alameda County Jail, and one from one of the postoffice inspectors that a certain bunch of letters were handed to you to be read in the Alameda county jail. Did you ever see those letters?

A. I never saw those letters until here. I never received a letter from Mr. Smith of any description.

(Testimony of John Grant Lyman.)

I had left Los Angeles before he commenced to cable, and nothing came to me direct.

Q. Did you send any telegrams from the Eddy Street jail?

A. I did not. I met Mr. Colon the next day in the Marshal's office, and he had read of my flight, and he sent out those telegrams, to Mrs. McDonald and my sister at White Plains, N. Y. [805]

Q. Were you given the privilege of writing any messages in the Eddy Street jail at that time?

A. I absolutely was not. I was searched by Mr. Madeira the man who testified here; he took away my keys and everything that I possessed. I was given a receipt for such things as I left there at the desk, and was put into a cell, which had no opening other than in the door, and there was nothing but an ordinary bench in there; there were no toilet facilities of any description, and no *cuv* or anything. I made a good deal of noise, I may say, and I asked that I be allowed to get something to eat and something to drink. I was more anxious to get a drink of water than anything else, and the man that came around there asked me if I had any money, and I told him no, that I had money at the office. Well, he said he could not do anything for me. Later on another man came and said that he had instructions that I was to communicate with no one. From the time I was put in there until the next afternoon at about 1:30, I had neither a drink of water nor anything to eat. In the meantime, I heard cups rattling up above me, there, and I asked for something, and

(Testimony of John Grant Lyman.)

they said it was all over, and I was again that night asked if I had any money, and I said no. I had some in the office and he said he could not do anything for me.

Q. Did you, in fact, have any communication with anyone from the time you were incarcerated in that cell?

A. I did not. And the two messages that have been described were sent the next day from the Marshal's office. I had only been at McNeil's Island a short time when I wrote Attorney General Harr and told him that there were a large number of people here who had invested in contracts for Government land in Panama, and I was charged with using the mails to defraud, and that I was the only one now, inasmuch as the office was closed, to complete those contracts, and I asked that [806] I be permitted to do so; that I would waive any immunity I might gain by so doing. Attorney General Harr acknowledged that letter and said that they had no jurisdiction there, for me to take it up with this office here. I attempted to write a letter here, and the warden informed me that I would not be able to do any business while I was there; that I would have to cut all those ideas out. However he did permit me to write late in the summer, where I made an additional application, which I wrote to Mr. Regan.

Q. Calling your attention to one telegram that was sent from San Francisco to Mr. Redpath, asking him to come up there, just before your arrest. You sent that telegram, did you?

(Testimony of John Grant Lyman.)

A. I did, and received the reply in which he said he would meet me at the St. Francis Hotel at ten o'clock.

Q. What was the object of sending for him?

A. A Mr. De Soto, who had been down here to see me, a civil engineer that I had known for several years, had been all over Panama and was interested in the survey of the road from Panama to David, was very anxious to get into the Panama Development Company and wanted to become a director. He stated that he had a friend that would put in \$20,000 if necessary, to back him, and I was very anxious to have him. He also offered to take whatever securities the company might have and loan up to their full value. And so I think I first wrote to Mr. Redpath on the 4th or 5th of September to come up and bring up everything, stating that I had someone here that was anxious to go on the *board* and would loan the company some money. It was on the 6th or 7th—the 7th and the 8th that we waited all day, both days at the St. Francis for him.

Q. Of September 1911, you refer to.

A. Yes, sir. In the meantime, not to have any slip-ups [807] on the matter, I had arranged to get some money on both automobiles and had mortgaged the Haldeman place for \$5,500, so that I had \$8,300 available, which was more than was needed.

Q. When you telegraphed him to draw on you for \$2,000, did you have the money available?

A. I had it contracted for so that had he been there—that draft, if you recall, I think it was a four

(Testimony of John Grant Lyman.)

or five days sight, and I would have had the money there at that time, and I had arranged it so that his draft would be honored. I expected him to be there. He was to come—he telegraphed that he and Mr. Lynn would be there the next morning, and we waited all day for him, and we thought surely he would be there on the following day, and I was going on the following night to Portland. I did not dream but what he would be there.

Q. When you left Los Angeles, where were you headed for?

A. First off to San Francisco, to raise the money. You understand me, when I went to San Francisco, there had been no word come to me from Smith that anything was wrong down there, that he needed money. There was \$1,700 that would have been due here on the 10th of September, but there was actually nothing due at the time—nothing more than two or three hundred dollars. There was some money in the account here, but we were getting down so low that I thought we ought not to go along like that. So I went up there to raise this money temporarily. I had plenty of ways of raising money. I could have raised \$50,000 in 30 days, if it had been necessary to do it, but I wanted immediate funds, and so I went to San Francisco to get it, and I did not want my friends at the St. Francis to know the desperate straits I was in, because it was rather an unusual position for me to be in. Then from San Francisco I intended to go to Portland. There had been correspondence there with a man [808] who was

(Testimony of John Grant Lyman.)

anxious to pick up some timber lands at Panama, and I was anxious to give him a free option to go down there and look them over. There was a man by the name of E. P. Howard at 319 Bennett Street, Vancouver, who had been advertising Riverside property—this Haldeman property—he had been advertising it for \$23,000 and stated he thought he would get \$20,000 without question. Naturally I did not want to *want to* sell it for less if I could get that price. I was going there to see him in regard to it, and then I was going to see Mr. Dowling and get a manager for this sugar plantation that I intended to promote in Panama in connection with the Panama Development Company. I took these contracts that I had,—there were only three of them introduced, but there were ten of them altogether—I intended if I could interest any planters there in sugar growing in Panama to lodge those contracts with the bank and give them a free option to go there and examine it, with the proviso that they shall forfeit a certain amount in their finding the land as represented and their not taking it. I am referring to the 10 contracts made out in my favor by the Panama Development Company, three or four of which are in evidence. I wrote U. S. Exhibit 48, and Defendant's Exhibit "A."

Q. Since you have been in the courtroom here were you furnished with the card index system of names of the parties who actually signed contracts for the Panama Development Company?

A. I was furnished such a list by Mr. Gray. If

(Testimony of John Grant Lyman.)

my recollection serves me there were about 163 persons who contracted for land; the amount of money paid by them was \$11,775.50, calling for 4,710 acres of land on the basis of \$2.50 an acre. I deeded the Haldeman property to Mr. Colon so that he could execute a deed and mortgage that would not be questioned, as he [809] did not have a wife. He executed the mortgage to my sister, and I had arranged to get \$5,500 on that. My sister offered to let me have the money that I needed if I could get her security, when I approached her for a loan, which was somewhere around the latter part of August or first of September.

Q. Was there any conversation between you and anyone else with reference to the Panama Development Company deeding the Haldeman property to you?

A. I talked it over with both Mr. Redpath and Mr. Smith.

Q. What was said?

A. That it better be deeded to me, that I could handle it better than the company could, as I was an individual, because when I went to San Francisco it was with the idea of either selling it through these brokers in Riverside, with whom I had been in communication, or else through this broker in Vancouver, Mr. Howard; and I had hopes that when I got to Vancouver that he would take the property and would sell it. He had been advertising it for some time and had assured me that he could get \$20,000 for it.

(Testimony of John Grant Lyman.)

Q. In the event you could raise any money on it, was anything said as to what was to be done with the money?

A. The money was for the Panama Development Company. Just before I went away, I told Smith if it was necessary I would sell the automobiles to get money for him, and he could count on whatever he needed, and that the business would be well taken care of; that I had resources to get the money, but it was difficult for me to raise cash quickly out here; but, nevertheless, I would sell all my personal property if needed.

A. I believed every statement that appears in the advertisements [810] or in the books is absolutely correct, because they are based on the Pan-American bulletins or on Forbes Lindsey's books.

Q. And with reference to the statements with reference to the proposed railroad and with reference to the proposed sugar mill, did you believe at the time those statements were circulated that they were true? A. I did, absolutely.

Q. It is charged here in the indictment that you devised and intended to devise a scheme and artifice to defraud. Did you at the time of forming the Panama Development Company believe that the venture you then had in mind would be profitable or otherwise to such persons as took advantage of it?

Q. (By Mr. SCHENCK.) With reference to all the representations which were made with your knowledge or by your authority or direction or consent, did you at the time you formed the Panama

(Testimony of John Grant Lyman.)

Development Company and thereafter, up to the time of your arrest—believe that such persons as might buy or take up land through the Panama Development Company, in reliance upon the very plan that you had in mind, would be defrauded or benefited.

A. I certainly believed they would be benefited.

Q. To an extent equal to the statements made, less or more? A. I did, absolutely.

Q. When did you last see those letters from Mr. Quelquejeu? A. Three or four weeks ago.

Q. Mr. Gray says that Friday you put them over on my side of the desk here in answer to a request of mine. Did you see them then?

A. I did not. [811]

Q. Was any of the money received by the Panama Development Company turned over to you for your private use?

A. Well, there were bills paid for me and charged against my account. It was a matter of convenience. If I happened to be in there and I had a bill, I may have asked them on two or three occasions to pay that and charge it to me.

Q. Do you know approximately how much money you put into the concern?

A. Something over \$24,000. Yes, I wrote this letter to Mr. Quelquejeu on April 17th and I received this letter dated the 5th of May, from Mr. Quelquejeu. The letter of June 1st is in answer to one from Mr. Quelquejeu; that is missing. The last time I

(Testimony of John Grant Lyman.)

saw the missing letter was in the office of the Panama Development Company. There is a letter here that I saw the original that was signed by Mr. Smith. It was the one dated May 16, 1911; there is another one here on the same date signed by me. This one that was dated May 16th and signed by Smith I saw already to be sent out, it was signed and ready to go. I had nothing to do with the mailing of the letter or with the writing of it.

Mr. SCHENCK.—We offer these letters in evidence as Defendant's Exhibit "W"—put them in as one.

Mr. SCHENCK.—(Reading:)

**Defendant's Exhibit "W"—Letter, April 17, 1911,
— to Quelquejeu.**

April 17, 1911.

Mr. C. Quelquejeu,
Panama, Panama.

Dear Sir:—

You may recall my calling upon you sometime since with Senor Hernan de la Guardia, with the view of obtaining some particulars regarding lands around David, and you were good enough to give me considerable information regarding same. Now, some friends of ours here think they would like to establish a colony in that province, which is likely to bring in a good many settlers during the next twelve months and which should be of much benefit to the district, and I have written Mr. Guardia to have him arrange for someone in Panama to select

the government lands for us and obtain the provisional [812] title in the names of the parties which will be sent on, and they would either arrange to do the necessary cultivation of the lands in order to perfect the title themselves, or have it done for them.

Have already written Mr. Guardia about this, but he may be away, or not, in position to handle it, and what I would like to know is that assuming we paid a fair compensation for the service—and that we shall be glad to do,—could you secure for me some reliable person who would act as our representative in Panama and select the desired government lands for us and see that we obtain the proper provisional title, which would be made permanent when we did the necessary amount of work, fenced the lands and made the final payment. As we propose pushing this matter vigorously and as it will without question redound greatly to the benefit of Panama, shall hope to hear favorably from you.

Address as below.

Very truly yours,

Address John G. Lyman,

Alexandria Hotel, Los Angeles, Cal.”

**Defendant's Exhibit "W"—Letter, May 5, 1911—
Quelquejeu to Lyman.**

(Letterhead of Quelquejeu & Co.)

"Panama, 5th, May, 1911.

Mr. John G. Lyman,
Alexandria Hotel,
Los Angeles, Cal.

Dear Sir:

I am in receipt of your favors dated the 17th ult., contents of which I have read with interest.

As I have communicated with Mr. Hernan de la Guardia and he informs me that he is willing to accept your proposition, I have not taken any steps to secure another person, but shall be willing to help you in any other way to carry out your scheme.

I am Sir,

Very truly yours,

C. QUELQUEJEU.

**Defendant's Exhibit "W"—Letter May 16, 1911,
Panama Dev. Co. to Quelquejeu.**

"May 16th, 1911.

Mr. C. Quelquejeu,
c/o Quelquejeu & Company,
City of Panama,
Isthmus of Panama.

Dear Mr. Quelquejeu:

I have not yet received an answer to mine under date of April 17th, but believe it is too early to expect an answer. However, we shall hope to make satisfactory arrangements with you to act with us

in Panama, as, entirely apart from the personal benefit you will derive from such a connection, it is going to be of decided benefit to the whole country.

As we shall want to enter into a number of contracts there, with a view of securing contract labor for the development of the sugar lands we wish to plant, we think that it would prove highly advantageous to have an Advisory Board in Panama, composed of Mr. Santiago de la Guardia and yourself, to work in conjunction with Mr. De la Guardia and advise him, and we have [813] appointed you a member of said Board, and trust you will accept the appointment, and state to us what compensation you think would be proper to aid us by your advice, etc. It is probably that you will not be called upon to do very much for the present, but after we get our plans thoroughly laid out, and can hear from Mr. Guardia, or yourself, and know that you are ready to act, we shall want to take up some Government land and arrange to have it cleared under contract, and planted in sugar cane.

We also want to obtain some citrus fruit land up along the Costa Rican border, and have that cleared, with a view of having it put into oranges, and for this work we propose to send an expert to Panama, but we do not want to send him until we can arrange to have the land selected and cleared, and we hope that between the three of you that you will be able to find such a person to do that work for us.

We have already advised Mr. Guardia that just as soon as he was in a position, we would place at his disposal ample funds to carry out whatever work

(Testimony of John Grant Lyman.)

we desire, and we have given him sufficient authority so that he will not be hampered, and it certainly would seem that if you looked after your part there, our efforts should result in a great success, and something that must rebound to the prosperity of the country, and we should be the means of starting a development there which should work a wondrous change in the Province of Chiriqui for the better.

Trusting to hear from you favorably as soon as it may be possible to do so, I am,

Very truly yours,

For Panama Development Co.”

Q. You signed that, did you?

A. Yes, sir. I received a letter from him after that letter was sent; it was sometime during the summer at the office of the Panama Development Company. I have searched through the files which have been given me by the Government since I have been here for that letter but did not find it. I do not know the date of it.

Q. What does the letter contain?

A. That he would be very glad to accept the proposition on advisory board; that he was going to Europe for a short trip, and on his return would give his attention to the business and would help us in every way possible. It was quite a long letter.

Q. This letter, dated June 1st—did you sign that?

A. I did. [814]

(Testimony of John Grant Lyman.)

**Defendant's Exhibit "W"—Letter, June 1, 1911,
— to Quelquejeu & Co.**

"June 1st, 1911.

Messrs. C. Quelquejeu & Company,
City of Panama,
Republic of Panama.

Dear Mr. Quelquejeu:

Am in receipt of your very kind favor and note with appreciation your offer to assist us in every way possible.

I wrote Mr. Hernan de la Guardia quite fully yesterday regarding our proposed plans, and have asked him to consult you as to same. After you have had an opportunity to consider my letter to him will you kindly advise *as* to what you think of our plans, and also what you feel should be your compensation for aiding us with your advice.

Trusting to hear from you at an early date, and again thanking you for your kindly offer,

Believe me,

Very truly yours,

Address 216, Mercantile Place, Los Angeles, Cal."

Q. After June 1st did you receive any other communications from Mr. Quelquejeu?

A. I may have received a note from him, but he had gone to Europe.

Q. You never, so far as you remember, received the letter which referred to this one? A. No.

Q. You think there are two letters from him which are not in the files? A. I am sure.

(Testimony of John Grant Lyman.)

(Letters last read, filed in evidence and marked Defendant's Exhibit "W.")

Q. Was there at any time, during the formative stage of the Panama Development Company, or any of these other subsidiary companies, any intention upon your part of any kind or character, to appropriate any of its funds, or any funds, to your own personal use? A. Never.

Cross-examination.

By Mr. REGAN.—[815] What English Companies were you connected with at the time of your arrest?

A. The British Investors Underwriting Corporation. I had a stock interest in it. My interest was severed for me after I was put in jail. I was not allowed to receive any mail; it was all marked "Fraudulent, return to writer," and all my business disintegrated, and I have not had any business since the 8th of September, 1911. My stock is still in London. I did not say I had any control over it. I had no way of getting it. My associates learned that I was in jail and thought I had committed some terrible crime and everybody dropped me completely. My stock is there but the business has collapsed, so I have been informed by mail.

Q. What other English companies were you connected with between 1901 and 1911?

A. I am not certain about that name. I think it was a foreign syndicate at Morgan Station, Chambers, in the city of London, East. I had loaned some money to the manager and director of the cor-

(Testimony of John Grant Lyman.)

ner and had control of some of the stock. The loan was made to Arthur W. Wells and it was for 1000 lbs.

“The note is in London, unless it was disposed of after I was locked up. I don’t know anything that has happened to my affairs since the 8th of September, 1911. I don’t know if the note has ever been paid. I haven’t made any effort to find out since the 8th of September, 1911. I have made no effort to collect it. I had a stock interest of a couple of thousand pounds in another English Company at Broad Street Place No. 1. I have forgotten the name of it. The certificates are in London. *Ever* paper and letter I have received since 1893 and *ever* contract I ever entered into is in London. I think the last time I was there was about the first of 1910.”
[816]

Q. What other English companies were you connected with?

A. The British Calores Mfg. Company; I had a 10,000 lb. interest in that, I still hold it; that is as far as I know I do. I have got no income from it whatever since I have been locked up. I have made no attempts to do any business since I was confined in September, 1911.

“I don’t recall being connected with any other company. My connections with these companies did not keep me in constant correspondence with them, as E. E. Palmer had a full and complete power of attorney from me which she still holds and has for about ten years. She has my absolute con-

(Testimony of John Grant Lyman.)

fidence and knows my business as well as I do and is far more able. I trust her with *by* bank accounts and everything I have, and have done so for years. I have had no correspondence with her since I have been in jail. In fact I may say I have had no correspondence since I have been in jail. Yes, I have, with my sister. All my letters have been opened and I have been subject to extraordinary scrutiny, everything I did, and therefore I have done nothing. I could have got information about my business connections by sending a messenger, but I did not do that. I was connected with at least 600 companies between 1901 and 1911, in promotion or participation in the promotion."

Q. Were your connections with these English companies such that you could not correspond even if your correspondence was subject to scrutiny?

A. Only I did not care to have you know all my business connections; that my income exceeded \$100,000 for fifteen years, chiefly from the English companies. I had some severe losses in Goldfield in 1907. I lost \$190,000 up there. I had been gambling on the stock exchange very heavily and I had some very severe losses. That was about 1905 or 1906. All this time I [817] had been interested in various promotions, having participation. One of the last ones was this British Calores Company. I bid fair to make a very large profit out of that when we were put into litigation by claiming that our process was an infringement on the British Thermos Company, and there was a temporary in-

(Testimony of John Grant Lyman.)

junction restraining us from doing business. It was decided in our favor while I was at McNeil's Island. The injunction suit was brought in London. I was frozen out of the American Calores Company.

Q. How long were you in Goldfield, Doctor?

A. I can't say. I was there for several occasions, several times. I was there the year of the boom; that was 1905 or 1906, I might be mistaken about that. That was the time that I floated the Bullfrog Rush. There were two concerns selling that stock. The Sullivan Trust Company that had an option on the thing to start with, to sell a certain amount. I think they had an option to sell two-thirds of it and it was taken. I advertised it very extensively, spent—I think the advertising ran into \$80,000, and I took in a large sum of money, applications, and I found the mine run into native rock, and in view of the fact that the people that had put in the money had had no run at all for their investment, I returned it.

“Q. You left town pretty suddenly there, didn't you?

A. I did not. I came down here threatened with pneumonia. I was not threatened with arrest. I never heard the Sullivan Syndicate called the Sullivan Swindle. I never knew that a suit was brought against me up there for selling an over-issue of the Bullfrog Rush stock. This is the first I have heard of it, this moment. I took orders for stock but I never actually delivered any certificates

(Testimony of John Grant Lyman.)

so far as I know, unless to the extent of a few hundred shares. There was \$150,000 returned. That is to say, [818] there were orders that were to go out with drafts for \$150,000. I cannot tell how much of that was cash. I don't remember."

"I had a controlling interest in the Rockland Realty Company. It did no business except a trifling amount. It was a skeleton company. By that I mean that no stock had been sold to the public, and practically no business was done through the corporation. I went to their office frequently to get mail but did not pretend to do any business. A man named Purdy was running that business. The expenses were paid out of the capital that was put into it. I kept the thing going until I got tired. Polinger was my valet and confidential man, and was practically dependent upon me for his living."

After I paid back this money to the purchasers of Bullfrog Rush stock, I went to New York and then to London and then to Panama.

Q. When you went to Panama at the time that you met Mr. Guardia, you did not enter into any agreement or contract with the Panamanian Government for the sale of Government lands, did you?

A. None whatever; either for myself or any one else.

Q. And in your trip to Panama, you never went through the Provinces of Chiriqui, Cocle and Veraguas, did you?

A. I did not. I was not an officer of the Panama Development Company, because I intended to use

(Testimony of John Grant Lyman.)

that as a means for selling lands abroad to English companies. To the best of my knowledge and belief I paid that thousand dollars for Guardia's stock. I would have to see the stock-books to be sure of that. Practically all of my work in the Panama Development Company was passing on the printed matter to see that no misstatements crept in, and the advertising in the newspapers.

Q. Did you ever answer any of the correspondence as it [819] came in, addressed to the Panama Development Company?

A. Not so far as I am aware, except that that came from Panama from Mr. Guardia or Mr. Quelquejeu. So far as I know I never answered any of those letters from people that wanted to buy Government lands. That was what Mr. Smith got a fifth interest for. I was not supposed to be doing their work too.

Q. Was there ever a meeting of the Board of Directors of the Panama Development Company?

A. There most certainly was. I can't give you the dates, but some of those dates in that book there, Mr. Redpath, Mr. Smith and myself, and they were held in the back office of Mr. Redpath's rooms. I think Mrs. McDonald attended the meeting on one occasion; all the minutes are not there.

Q. Here are three meetings in the minutes that recite that Miss McDonald was present, was she present on those occasions?

A. I cannot speak for her. I am not in a position to say whether Miss McDonald was at those three meetings or not; I was not at all the meetings.

(Testimony of John Grant Lyman.)

Q. If Miss McDonald says she never attended a directors' meeting, is she mistaken, or are you?

A. She is certainly mistaken on one occasion, because I know she was there. I sat there in the room while the meeting took place. That refers to this car. Mr. Redpath sat down and wrote that out in his own hand, and it was copied and signed and put in the book.

"I did not dictated U. S. Exhibits 72 and 76, and Miss Hub is mistaken if she says I did." Neither did I furnish any of the information for any of those letters.

Q. You were familiar with the situation in reference to the Basin, Wyoming company, weren't you?
[820]

A. Yes, sir; every one in the office was familiar; that is, I am referring now to men like Smith and Redpath and the bookkeeper, who had charge of those things. I was placing all my papers in Mr. Redpath's hands.

Q. Do you mean to say that the Panama Development Company had a mortgage of \$5,000 for Basin, Wyoming company?

A. Yes, sir; for the money they had advanced, and were to advance.

Q. What was your idea in advancing money belonging to the Panama Development Company to the Basin, Wyoming Company?

A. Simply for a matter of convenience in book-keeping, and doing the business of the Basin, Wyoming company through the Panama Development

(Testimony of John Grant Lyman.)

Company. There was no stock, no one outside that had no interest in the Panama Development Company outside of Mr. Redpath and Smith and myself. That was to be used as a promotion corporation.

Q. Did you consider it a matter of business to take the money of the Panama Development Company and deliver it to the Basin, Wyoming company?

A. Inasmuch as I was paying in and agreed to pay in all that was required, my own idea is that they got a *quid pro quo* when they got that mortgage. There was also a bunch of stock attached to that thing—I could not tell how much. I think it was fifty or one hundred thousand shares, and there was quite a lot of that stock sold.

Q. You did not have anything to do with the business of the Panama Development Company?

A. No, sir; not in the way of having papers recorded. I could not have given these gentlemen one-fifth interest each and done all the work. I considered them quite capable of managing it. I have done that sort of business repeatedly before, given men a one-fifth interest and keeping a two-fifths myself. [821] I afterwards reduced the capitalization of the company.

Q. You say you wrote to England?

A. Yes, sir; I wrote to England; to Baisevain in Amsterdam, to Bleichroeder in Berlin and Kahn in Frankfort-on-the-Main.

Q. You attended to all the English correspondence?

A. I can't say that I did. I gave a considerable

(Testimony of John Grant Lyman.)

number of names that were written to from time to time. I wrote to people as they occurred to me. Some name would suggest itself and sometimes a half a dozen a day, and those letters were taken over to Smith.

Q. When I say you attended to the English correspondence, I mean you attended to the English correspondence with any of these agents—I didn't mean the investors, but agents or whatever you would call them. A. They were promoters.

Q. You attended to all that correspondence?

A. I can't say that I did, only as I have described it. There were a good many names that I handed in. I had a large number on my books. A good many of those letters were written from the office.

Q. Were those the names of investors?

A. No, sir; all promoters; all brokers. So far as the letters sent to the British Investors Underwriting Corporation, I wrote those, and I wrote to the foreign syndicate and I wrote to the Canadian syndicate, and other names may suggest themselves. But I don't recall them at this moment. The purpose of the letters was to get before them the official statement from the Pan-American bulletin as to the great fertility of the lands in Panama and their suitability for growing sugar cane. I did not expect them to sell lands, but I expected them to sell a lot of the sugar estate stock, and, as the Panama Development Company [822] was the corner-stone of the whole thing, it was necessary to make a success of that to make a success of the other.

(Testimony of John Grant Lyman.)

“I did not carry on this correspondence with English promoters in my own name, for the reason that I expected to appear in the Sugar Estates Limited and did not want to appear both as a buyer and a seller. That is the reason my name never appeared as an officer in the Panama Development Company. I never heard of the firm of Chown Ussharef, London, and did not dictate and never saw a letter like the one you show me. (Said letter marked U. S. Exhibit 223 for identification.) I did not dictate the letter you show me addressed to Mr. George S. Smith, Dalby Welch, Limited. (Said letter marked U. S. Exhibit 224 for identification.)”

Q. Did you have any representative in London with whom you transacted business direct in reference to the sale of this stock of the Panama Sugar Estates Company?

A. Several people. E. E. Palmer was my representative there, and Arthur W. Wells.

“I am not certain but I think I have seen the letter you show me.” (Said letter was introduced and read in evidence, marked U. S. Exhibit 225, and reads as follows:)

(Testimony of John Grant Lyman.)

U. S. Exhibit No. 225—Letter July 13, 1911, Smith,
Dalby-Welch, Ltd., to Panama Dev. Co.

(On letterhead of Geo. S. Smith, Dalby-Welch Ltd.)

"Old Broad St., London, E. C.

July 13th, 1911.

H. C. B.

Messrs. The Panama Development Co.,

216 Mercantile Place, Los Angeles.

Gentlemen:

We duly received your letter of the 20th ultimo with enclosure. We have carefully perused your printed matter, but in its present form it would not appeal to Investors in this Country. Something more definite would have to be prepared to put before them, and there is not sufficient in the matter you have sent to enable us to prepare a Prospectus according to the English custom. If you have an agent over this side, or should any of your directors be visiting this country, we shall be pleased to receive a call from them, and fully discuss any proposition you may have to put forward.

Yours faithfully.

GEO. S. SMITH, DALBY-WELCH, LTD.

H. C. BALDEN.

Managing Director.

F. M. H." [823]

(No. 672—Crim. U. S. vs. Lyman. U. S. Exh. 225. Fld. Dec. 4, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Dep. Clerk.)

Q. Did you ever reply to that letter which I have just read?

(Testimony of John Grant Lyman.)

A. I don't think I had any correspondence with that concern. I think that was dictated by Mr. Smith. I did not write back and tell them I had an agent or representative in London, because we were not trying to sell any lands there. I have already explained why those things were sent out: it was only reaching brokers with a view of getting before them the statements of the Government made through the Pan-American bulletin as to the fertility of the land in Panama, and to bring to their attention later on the Panama Sugar Estates Limited, not for the purpose of selling lands.

"Q. Did you ever see any of these 3-page English letters addressed to people in England?

A. That will depend on whether they were dictated or mimeographed. I don't recall seeing any mimeographed letters. I think as a matter of fact there were not a great many of these English 3-page letters mimeographed, addressed to English investors, because I don't think there were many English investors' names in the office. I don't think I dictated the letter you show me. I have no recollection of having written to that concern. (Said letter marked U. S. Exhibit 226 for identification.) I don't recall that I ever stated or represented that the Panama Development Company had \$50,000 paid-up capital. I had promised to pay in \$50,000 cash, as and when it was required for which I was to get stock."

Q. As I understood you: the Panama Development Company advanced \$15,000 to the Panama

(Testimony of John Grant Lyman.)

Sugar Estates, Limited?

A. Only in the sense of advancing stock which was to be sold for \$15,000. The Panama Development Company had two bills of exchange drawn in its favor and accepted for \$15,000 cash, [824] each of them. And that was secured by 30,000 shares of the stock for each of the companies, the Sugar Estates Company and the Tropical Products Company, and I expected to sell those shares among the various promoters, and all the data that went to London in regard to the Panama land was really to get before the people there the value of the lands, and what the Government had to say about them, rather than any idea of selling Panama lands. The Panama Development Company did not advance \$15,000 of cash to the Panama Sugar Estates Company and the Tropical Products Company, but it was only done in the sense of shares. They received a bill of exchange for \$15,000. It was a bill of exchange drawn by me on my agents in London in favor of the Panama Development Company, and the third party accepted them as a bill of exchange, collateral. The bill of exchange was attached to the stock; you took those to a bank and borrowed money on them just as you do shares; it was just the same as a collateral note.

“I don’t think I represented that the Panama Development Company had 16,000 acres of timber land in Veraguas. The company never owned any land at any time. I *did offer* for sale 16,000 acres or any part thereof of government timber land in Veraguas.”

(Testimony of John Grant Lyman.)

Q. When you told Pentland that he could have an oral option on 10,000 acres at Agua Dulce, on what authority did you give him that option?

A. I don't know as I had any particular authority more than I knew that I could obtain the lands for him. That is all.

Q. Did you believe that you could go down there anywhere and get land wherever you desired it?

A. In every district. Practically so; yes, sir. It is [825] stated in those bulletins that there is land all along that road that was available. An option to him on land that did not exist would have been valueless, because he was to send his people down and they were to approve the land before they made any purchases.

Q. Did you keep in touch with the financial condition of the company?

A. Only to the extent that whenever they told me they needed money, I saw to it that they got it. The last time that I furnished them money I think was on the 7th or 8th of September; I notified Mr. Repath to draw on me for \$2,000.

Q. You were paid money by the Panama Development Company?

A. Oh, trifling sums; I think it was in the neighborhood of three or four thousand dollars.

Q. I show you United States Exhibit No. 220, and I will ask you whether or not that blank check signed by the officials of the Panama Development Company was in your possession at the time of your arrest.

(Testimony of John Grant Lyman.)

A. I never saw those checks until I came here; I can't imagine what they are for. I will say the same with reference to United States Exhibit No. 219.

Q. You stated that you transferred the Haldeman property to Mr. Colon, because you were having trouble with your wife?

A. My wife was not here, and it was not possible for me to get an immediate signature to that.

“My reason for transferring to Colon was to facilitate a transfer of it that would be accepted without question. A transfer from me as long as I had a wife would not be accepted.

Q. Then why did you have the Panama Development Company transfer the property to you in the first place? [826]

A. I did not know it at that time. I could transfer to Colon, who would not question it, while a third party might. I don't know that anybody buying the property from Colon would question my conveyance to him. I think I told Byrd about having domestic trouble at the time I went to San Francisco.”

Q. You never stated to anybody that the reason your name did not appear in the literature was because you were having domestic troubles?

A. I have not the slightest recollection of any such thing. I am not in the habit of discussing my domestic relations with any of my employees.

Q. Did Mr. Redpath ever ask you why your name did not appear on the literature?

A. I don't think he ever did. Mr. Redpath was not in the habit of asking me questions. I may say

(Testimony of John Grant Lyman.)

that I never told him because I was not called upon to do so.

“I don’t think I ever gave Mrs. Dougherty a copy of the multigraph letter. I had a white suit, and called at a number of houses in Alhambra, but I don’t remember calling at Mrs. Cholwell’s, and telling her that I would take an exchange of her property for some Panama lands, and then seeing that the Panama land would be sold. I think it extremely doubtful if such a thing occurred.”

Q. Now at the time you were operating the Panama Development Company, did you believe that corporation had a paid-up capital of \$50,000?

A. I certainly did, with those Pollinger notes given for the stock.

Q. Did you believe that the corporation was an agent of the Panamanian Government for the sale of government lands? [827]

A. I did not; and never made any such claim.

Q. Did you believe that these applications for land which you received would be immediately filed with the Panama Government?

A. As soon as the company was in a position to do business there.

Q. Did you believe the Panama Development Company had experts in the Republic of Panama who were familiar with the location and character of government lands?

A. I did; they were Mr. Hernan de la Guardia and Mr. Ryan.

“I believed that the Panama Development Com-

(Testimony of John Grant Lyman.)

pany could and was furnishing maps showing the location of the government lands offered by the company, and that the company could designate on the maps in a general way, sufficiently to identify it, the location of the land offered for sale."

Q. Did you believe that the Panama Development Company had sold 10,000 acres to an American colony at Agua Dulce?

A. So far as I know, no such claim was ever made. I knew that arrangements had been made for the sale of 10,000 acres of land down there, and so far as I know that was all that was ever said. I did not believe that a railroad was being constructed from the city of Panama to the City of David. The contracts had been entered into, the road had been surveyed, or was being surveyed and the contracts would be entered into for its building and in the bulletins it stated that contracts had been made. I believed it; yes, sir. I did not believe that the Panama Development Company was clearing and cultivating some of the government land which it had already sold. So far as I know no such claim was ever made. It was my intention to make that development there of such lands in connection with the promotion of the sugar company, making it a part of my own [828] development. I did not believe that the Panama Development Company had for sale 16,000 acres of government timber land in the province of Veraguas. I believed that there was 16,000 acres of government timber lands available which this company could take up under powers of attorney, and sell that way,

(Testimony of John Grant Lyman.)

but it had no option or anything of that sort, or any agreement with the Government.

“I believed that on the first day of August, the price of timber lands would be increased to \$6.00 per acre. That price was made by the Panama Development Company. I didn't tell Byrd to represent himself as my half brother, or to say that his name was Lyman.” I sent that telegram.

(The said telegram is marked United States Exhibit 162, is read in evidence and the following is a copy thereof:)

U. S. Exhibit No. 162—Day Lettergram, September 4, 1911, — to Byrd.

(Western Union Telegraph Company.)

DAY LETTER.

Received at Main Office,
608-610 S. Spring Street,
Los Angeles, Cal.

D-87 S. D. S. 66 Blue 915
St. San Francisco, Sept. 4, 1911.

Geo. M. Byrd,
216 Mercantile Place, Between 5th & 6th St.
Los Angeles, Cal.

Your letter with Smiths first cable not received but garbled second message received cable guardia remember *you* son accepted directorship and if company has committed illegal acts he is equally responsible with other members and unless you help Smith will surely get into trouble. Cable Smith utterly impossible raise funds immediately send release

(Testimony of John Grant Lyman.)

papers with draft attached. Warn Guardia as director is equally liable with you. 12 noon.

No. sig.

(672—Crim. U. S. v. Lyman. U. S. Exhibit No. 162 for ident.)

(672—Crim. U. S. vs. Lyman. U. S. Ech. 162. Fld. Dec. 4, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk.)

Redirect Examination.

By Mr. SCHENCK.—I do not know where those letters and cablegrams are referred to in the telegram.

Q. I see here, “Your letter with Smith’s first cable not received, but garbled second message received.” You acknowledged receipt of one garbled second message? [829]

A. Yes, sir; I don’t know where that second message is now. I presume it was with me in San Francisco, and I have not seen it since. I received a message from Byrd stating that Smith was in dire trouble in Panama and must have money at once. I don’t know whether Byrd mentioned Smith was to be arrested, I have forgotten the exact words. What the trouble was, was not indicated, except that he must have some money and I had had no wire from young Guardia as to anything serious happening there and of course I realized that if anything happened to Smith there it would have a very bad effect on the business, and I suggested to him that whatever papers were necessary there to forward them with draft attached for the money that he re-

(Testimony of John Grant Lyman.)

quired and advise Guardia that his son was a director there and if there was anything wrong he was equally liable, and this you see was sent out on September 4, and I got busy immediately following that and raised \$8,300. I don't remember the exact phraseology of the cablegram, from Smith but it was to the effect that Smith was in trouble there and was making a demand on Byrd for money and it was my suggestion that Byrd wire him to send whatever was required in order to release Smith, with drafts attached.

“The concern which accepted the two drafts for \$15,000 was the London Underwriting Corporation. The head of it was the E. E. Palmer who held my power of attorney. The capitalization of the concern was 10,000 pounds, and I had an interest somewhere in the neighborhood of 2,000 pounds.”

Redirect Examination.

To the best of my knowledge and belief, the book you show me is the ledger I saw in the office of the Panama Development Company.

Q. I will ask you this: With reference to those checks, which Mr. Regan showed you this morning, showing you checks [830] made payable to you and checks made payable to cash and checks made payable to “ourselves,” about which you testified on cross-examination, can you state offhand the amount of money that was paid to you for and on account of your own self—your personal account?

The total amount of money that was paid by the

(Testimony of John Grant Lyman.)

company on my personal account, as I remember, was somewhere in the neighborhood of \$4,000.

Testimony of Charles S. Sprague, for Plaintiff (In Rebuttal).

CHARLES S. SPRAGUE, called and sworn on behalf of the United States, testified in rebuttal as follows:

Direct Examination by Mr. REGAN.

I live in Goldfield, Nevada. I was editor and proprietor of the "Goldfield News" at the time the defendant was in Goldfield.

Q. Do you know his general reputation in the community for truth, honesty and integrity?

A. I can't say that I ever heard the matter discussed as to his general reputation, not at that particular time. It is more from my own observation of things. I have heard Dr. Lyman discussed at Goldfield, and his business and method of doing business. I can cite certain instances that I happen to think of.

Q. And what was his reputation for truth, honesty and integrity? A. Bad.

Cross-examination.

(By Mr. SCHENCK.)

Q. With whom did you discuss it?

A. I don't recall just exactly with whom I discussed it.

Q. With whom did you discuss it?

A. I can't recall that I discussed it with anybody, particularly that was a number of years ago. This

(Testimony of Charles S. Sprague.)

matter has all [831] gone out of my mind, or largely has. I can't say that I ever discussed it outside of my own office and with my own force.

Testimony of Milton M. Detch, for Plaintiff (In Rebuttal).

MILTON M. DETCH, called and sworn on behalf of the United States, in rebuttal testified as follows, upon direct examination by Mr. Regan:

I have lived in Goldfield for ten years and I was there in 1906 and 1907. I know the defendant John Grant Lyman.

Q. Do you know his general reputation for truth, honesty and veracity in the community there?

A. I do.

Q. What is it, good or bad? A. Bad.

Cross-examination.

(By Mr. SCHENCK.)

Q. How long did you know him?

A. I don't know that I ever met Mr. Lyman personally.

Q. With whom did you ever talk about his honesty in Goldfield?

A. Numerous people; among them a gentleman by the name of B. H. Sheftels; he was formerly a client of mine.

Q. Do you know, as a matter of fact, that he was convicted, don't you, of using the mails to defraud?

A. I heard that he was.

Q. You know that he served six months too, don't you?

A. No, sir. I have also talked to a Mr. Leaven-

(Testimony of Milton M. Detch.)

worth, secretary and treasurer of the Bullfrog Rush Mining Company, about Dr. Lyman. I also spoke to a man by the name of George Graham Rice, and a Mr. Gay, an assistant cashier of the Johns Cook & Company bank, Goldfield, Nevada. [832]

Q. George Graham Rice that you speak of, his real name was Herzog, wasn't it?

A. That is what I have heard.

Q. You know, as a matter of fact, he served some time—two terms—don't you?

A. I have heard from newspaper reports that he did.

Redirect Examination.

(By Mr. REGAN.)

Q. Was Lyman and Latimer and Rice doing business up there in Goldfield together? A. Yes, sir.

(Mr. Regan then asked permission of the Court, that he be permitted to take this witness on further direct examination.)

“I made efforts to locate Lyman about the time he left Goldfield and was unable to do so. I didn't know where he was until he was arrested in connection with the Panama Development Company.”

A. It was. Our firm brought a suit against Dr. Lyman and a Mr. Latimer, the secretary and treasurer of the Bull Frog Rush Company, for the sum of \$33,000, in behalf of the B. H. Sheftels Company of Chicago, Ills., and was filed in Nye County, Nevada. A warrant for Dr. Lyman's arrest was issued at my request. The suit was based upon a fraudulent

(Testimony of Milton M. Detch.)

claim, that Mr. Lyman had authorized Mr. Sheftels to buy a certain stock, in the Bull Frog Rush Company, Mr. Sheftels paying for it in Chicago and drawing upon Mr. Lyman in Goldfield, Nevada by draft, with stock attached; and also it was based upon the fact that Mr. Sheftels was claiming that an over issue of the stock had been permitted by Dr. Lyman. I don't know whether that claim was made particularly against Dr. Lyman, but more particularly against the secretary and treasurer of the company. Dr. Lyman [833] was not an officer of that company, as I remember it, at that time, but was handling the stock.

"Service was never made of the warrant, although persistent and continued efforts were made to do so."

"I never heard of Dr. Lyman ever having paid back \$150,000 or any amount for purchases made of Bullfrog Rush stock."

Cross-examination.

(By Mr. SCHENCK.)

Q. Rice and Sheftels were partners, weren't they?

A. No, sir, not at that time. Mr. Rice was then a member of the firm of the L. M. Sullivan Trust Company.

"Lyman was charged with the over-issue upon the theory that he was promoter of the stock of the company. We based it upon information from Mr. Sheftels who came from Chicago."

Q. Your idea of persistent efforts made to appre-

(Testimony of Milton M. Detch.)

hend him or capture him was simply based upon what somebody else told you? A. Entirely so.

Q. And whether any effort was made to catch him, or any effort made to apprehend him at all, you cannot swear to a single effort, persistent or otherwise, can you? A. No, sir.

“While living in Alhambra in 1911 I received literature regarding the Panama Development Company. Afterwards a gentleman called at my house with a lady. He got out of the machine and the lady remained in the auto. He made a proposition to buy my bungalow, and I think I was to take some of the Panama stock, or whatever it was, in exchange for the same. It was nothing that I was interested in. To the best of my knowledge and belief I think the defendant was the gentleman who called upon me.” [834]

Cross-examination.

(By Mr. SCHENCK.)

Q. But you would not be positive as to that?

A. Well, as to my best positive belief, I think so.

Q. Was the gentleman that called there—was he heavier or lighter than this gentleman, or about the same?

A. Well, he was quite stout. I think he was dressed in a light suit and I think he had a mustache; still I don't know, I think so. After the gentleman was gone we all spoke of him being such a fine looking gentleman. That is all there was about it; that is the whole conversation.

Q. As a matter of fact, you could not be positive

(Testimony of Anthony McCauly.)

to-day whether it was Panama lands or Panama stock or what it was, could you?

A. No; inasmuch as it was nothing that I was particularly interested in, I did not charge my mind with anything about it.

Testimony of Anthony McCauly, for Plaintiff (In Rebuttal).

ANTHONY McCAULY, called on behalf of the United States, in rebuttal, being first duly sworn, testified upon direct examination by Mr. Regan, as follows:

My name is Anthony McCauly. I live at present in San Diego. I lived in Rhyolite in 1905 and 1906, where I was correspondent for the Hearst papers. I have seen the defendant Lyman in Rhyolite on one or two occasions.

Q. Well, did you know his general reputation in the community for truth, honesty and veracity? Answer yes or no to that. A. Yes; it was bad.

Cross-examination.

(By Mr. SCHENCK.)

Q. How long was the defendant there? [835]

A. I don't think he was there very much. I only remember seeing him once or twice. I don't remember the name of a single person that I ever talked to about his veracity, nor do I remember a single conversation.

Testimony of Miss Leta Hubb, for Plaintiff (In Rebuttal).

Miss LETA HUBB, recalled on behalf of the United States, having been previously sworn, testified in rebuttal as follows:

(Testimony of Miss Leta Hubb.)

Direct Examination.

I show you United States Exhibit 223 for identification was dictated to me by Dr. Lyman.

Q. And that copy I hold in my hand was transcribed from my notes.

(The said letter is marked United States Exhibit No. 223, is read in evidence, and the following is a copy thereof:)

**U. S. Exhibit No. 223—Letter, Panama Dev. Co.
to ———.**

Book 10, Page 1.

Chown, Ussharex, London: Representative sailing
September Panamano.

Dear Sir:—

Have just written you as follows, which we beg to confirm.

We are also enclosing you a letter addressed to a selected list of names in England who have bought lands in Canada recently, and with this we are sending them a circular entitled "Panama"; likewise a map of Panama and one of a special district which is one of the best sugar producing sections of Panama. This map shows what lands are open to location and what have been sold.

When it is desired, we undertake the cultivation of those lands on shares, providing we are given a three year contract, but we would not care to undertake it for a less period than this, for the reason that it takes about three months to clear the land, the cost of same being \$40.00 (200 fcs.) per acre, but

after the first year there is practically no work, as the cane reproduces itself, and will show a net profit of from \$50.00 to \$75.00 per acre. This is really one of the most lucrative and desirable investments one can make, as sugar planting does not require personal residence, all this work being done under contract.

You will note the men connected with this company are all prominent men, and we may tell you in confidence that it is more than probable that Mr. Guardia will be the next president of Panama.

We see no reason why you should not be able to sell these lands in France and England, and for that matter, on the installment plan, providing at the same time for their cultivation and planting to sugar cane. This is precisely what is being done now by one American Company, who are purchasing their lands from us, and it is not unlikely that we shall likewise [836] undertake this particular work, for there is a world market for sugar, and, as stated before, it is very profitable.

While the price of the lands is to be advanced to \$6.00 (30 fcs) August 1st, in order to give you an opportunity to become established, we will give you an option, until September 1st, on any part of 2000 acres, at 25 fcs. per acre, payable 12-1/2 fcs. per acre upon application, and 12-1/2 fcs. in four years, with no taxes or interest to pay during that interval.

Please bear in mind that these sugar lands are among the most fertile lands in the entire world, and all they have lacked heretofore was transportation facilities, which are now near at hand. There is

little doubt but that they will many times increase in value even if not cultivated, as the opening of the Panama Canal is going to bring a tremendous change to this district.

Regarding the section of the map which we have marked, and recommend to you, this is only about 80 miles from the Western entrance of the Canal, and is on the line of the new railroad, so you will see it is very desirable property indeed.

Now, it is possible that there will be a further advance in the price of lands to \$7.00 (35 fcs.) per acre, and we rather think by December 1st the price will be in the neighborhood of \$10.00 per acre, so that whatever amount you think you can handle you had better secure an option on, otherwise you will have to pay a higher price for it.

You understand of course, we are acting as Government agents in this development work, and all lands are the same price, and we have not much latitude for making terms, other than already offered. Of course the lands are subject to discount to you of 10% as previously outlined in an earlier letter.

We should think a very good way to handle these lands would be to form a land company to own, say, one, to two, three or ten thousand acres, and then sell units against that in the way of shares of stock, representing each an acre of land, to be put into sugar cane, say on a basis of £20 per acre, payable on the installment plan, scattered over a period of four years.

We may say in passing that this land would be productive and on a paying basis of not less than

£10 per acre the second year, so that they could easily pay for it from the profits of the land. Where we put it into sugar cane, the payment we require would be 125 fcs. per acre when the land is cleared and planted, and 125 fcs. per acre from the first crop harvested, which would be 15 months after planting. We would send you a certificate from a Government official, the Administrator of Lands, of that district, showing the land was cleared and planted, before asking you to make any payment other than for the raw land itself, and as the title to this would go to you, we would have no claim on same, but would have on the development work, as that would be done by us, and if you did not pay for it, naturally we would take that crop.

Please bear this in mind, that if you do not want to go to the trouble and expense of having the land cultivated, that the lands themselves will greatly increase in value. Among the most desirable lands, if you do not want to engage in cultivation of same, are the timber lands. They are very valuable, indeed, and can be had on the same terms.

We enclose you a picture of a log, and you will be able to see from this the character of the timber. There are single mahogany trees worth \$80.00 each, or will be when the Canal is opened so they can be gotten to market, and there is not an acre of this land that does not contain timber to the value of [837] 5000 fcs. so you see there are many possibilities in Panama, and if you can advise us just what lines you wish to work, we will do our best to aid you.

(Testimony of Miss Leta Hubb.)

We shall have a representative going to Europe in September, and can then bring you anything desired. Meanwhile we will send you all of our literature, which will give you much information, and we trust lead to business that will result to our mutual benefit.

Very truly yours,
PANAMA DEVELOPMENT COMPANY.

By _____.

Cross-examination.

(By Mr. SCHENCK.)

Q. When did you transcribe that?

A. Since I have been back here—since September 10th. The letter must have been dictated some time after July 17th.

Q. Have you any independent recollection of having received a dictation of that letter from Dr. Lyman, or do you simply assume that you got it from him because of your belief in your never receiving any dictation from anybody else?

A. I suppose he did; it is in my book, and from the fact I never took from anyone else. I would have to see the letter to know whether I wrote it. It is simply what I transcribed four or five weeks ago in this building.

Q. If you were deprived of your note-book—and I should ask you: “Did you ever write a letter to, whoever the name is, “you wouldn’t remember it?

A. No; nor who dictated it, nor what it contained.

Q. Then your whole answer is based upon these two things, is it not: First, that you believe you never

(Testimony of Miss Leta Hubb.)

took dictations from anyone else while in their employ and, Second, you have found some notes in your book, which, transcribed, read like the thing you have in your hand, and your answer is based on those two things entirely. A. Yes, sir.

Redirect Examination.

(By Mr. REGAN.) [838]

Q. And the notes in the book are notes that you wrote yourself?

A. Yes, sir. I wrote the original letter and I have not seen it since that time.

Recross-examination.

(By Mr. SCHENCK.)

Q. Do you remember seeing the original letter?

A. I remember I wrote the original letter, and I assume that because I saw it in my notes.

Q. I notice this letter says: "Have just written you as follows which will beg to confirm." Were you in the habit of writing a letter and then writing another to confirm that one?

A. Something was evidently inserted in there; my notes do not show that.

Q. Then this is not a copy of the letter that you actually wrote?

A. That is a transcription of my note-book. The transcription contains everything that was dictated.

Q. But there was other stuff in your original letter that is not here?

A. I should judge so; I don't know.

Q. Do you remember ever having written to this address before—Chown, Ussharex, London?

(Testimony of Miss Leta Hubb.)

A. That is a cablegram. I don't know to whom this letter went, if it went to anyone; I don't know.

Q. Then you mean by that, do you, that this sets forth some dictation that you received, from Dr. Lyman, but whether it was addressed to anyone, and if so, who, you don't know?

A. I don't know to whom it was addressed, nor whether it was sent out or not. I don't know anything other than that is an exact transcription of my notes. [839].

Q. You don't remember sending a cablegram to that address in London? A. I don't remember.

**Testimony of M. J. Moore, for Plaintiff (In
Rebuttal).**

M. J. MOORE, called and sworn on behalf of the United States, testified in rebuttal as follows:

Direct Examination.

I have been postmaster at Rhyolite since June 15, 1911. I knew the defendant there.

Q. Do you know his general reputation for truth, honesty and veracity, in the community?

A. Yes, sir; it is bad.

Cross-examination.

A. I knew him at the time he was in there in the mining excitement of 1907. I knew a great many people around Rhyolite who know him and talked to quite a good many. I base my opinion on statements made by the Bull Frog Rush Company of which Mr. Lyman was the head, but whether he made them himself I do not know, I could'nt swear.

**Testimony of J. M. Colon, for Plaintiff (In
Rebuttal).**

J. M. COLON, recalled on behalf of the United States, having been previously sworn, testified in rebuttal as follows:

Direct Examination.

(By Mr. REGAN.)

Q. At the time Lyman executed the deed to you of that Riverside property which has been introduced in evidence, did he state to you why he was conveying the property to you?

A. Yes, sir; he said he was going away and wanted to dispose of the property—wanted to sell it—and wanted to know if I would take charge of selling it. He said nothing definite about paying me except that I was to receive a commission and my [840] expenses. I don't remember that he said anything at that time that his sister was going to advance me any money on the mortgage. I have known Lyman since 1906. I knew him in Rhyolite and have known him ever since. I knew his general reputation for truth, honesty and veracity in the community. I have heard it discussed and it was bad.

**Testimony of Mrs. I. N. McDonald, for Plaintiff (In
Rebuttal).**

Mrs. I. N. McDONALD, recalled on behalf of the United States, having been previously sworn, testified in rebuttal as follows:

Direct Examination.

(By Mr. REGAN.)

Q. Were you employed by Dr. Lyman in 1910?

A. I was, in New York City in his office in the

(Testimony of Mrs. I. N. McDonald.)

name of The Rockland and Orange County Realty Company. I attended to his correspondence at that time. I don't remember of ever having taken any dictation in reference to any English transaction. Dr. Lyman was in and around the office nearly every day when he was in the city. He went away about the beginning of December, 1910, and came back the 24th. He was going away the following month, but was arrested as he was about to leave. About a month or so later he went down to New Orleans and from there I believe he went to Panama. I closed up the office. I think there was about two months' rent owing. I never heard him speak of any English transactions or English investments that he had.

U. S. Exhibit No. 226 for identification was dictated to me by Dr. Lyman.

(The said letter so identified is marked United States Exhibit No. 226, is read in evidence, and the following is a copy thereof:)

**U. S. Exhibit No. 226—Letter, August 15, 1911,
Panama Dev. Co. to Smith, Dalby-Welch, Ltd.**

Aug. 15, 1911.

George S. Smith, Dalby-Welch, Ltd.,
Gesham House, Old Broad St.,
London, E. C. England,

Gentlemen: [841]

We have your favor of recent date and note you think that later in the season, you think it might be possible to do something with Panama lands in England.

We enclose you herewith three letters which have been sent to the Shareholders of the Canadia~~l~~ Land Company, which list we obtained from you. It is too early yet for an answer, but if anything comes in, we will advise you. Meanwhile, we would like to have your criticism on the enclosed literature and suggest changes to correspond with English customs, and at the same time supply us with the names of such lists as you think it would be advisable for us to use, together with the cost of same, as we propose circularizing again the latter part of September.

Thanking you in anticipation, we are,

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By _____.

McD.

[Endorsed]: #672—Crim. U. S. vs. Lyman.
U. S. Exhibit #226 for Iden.

Testimony of Lou Blakesly, for Plaintiff.

LOU BLAKESLY, called and sworn on behalf of the United States, testified as follows:

Direct Examination.

I live at Basin, Wyoming. My occupation is that of County Clerk and Ex-officio Register of Deeds, of Big Horn County. I made a personal examination of the records of that county to ascertain whether or not the Panama Development Company appeared on the records of deeds and mortgages there. I did not find the Panama Development Company appearing as a grantee in any transaction, nor as grantor, nor did I find it [842] appearing as a mortgagor in any capacity, or as mortgagee.

Testimony of Edward F. Dishman, for Plaintiff.

EDWARD F. DISHMAN, called and sworn as a witness on behalf of the United States, upon direct examination by Mr. Regan, testified as follows:

I am Assistant Postmaster at Los Angeles. Fraud orders are issued by the Postmaster General, on the recommendation of the Assistant Attorney General, on information from the local inspectors. After the fraud order is issued, we receive a communication from the Assistant Attorney General, and every postoffice throughout the United States receives that communication; of course not that identical communication with reference to any particular fraud order. The office affected receives the original fraud order directing it what to do and the notice to the other offices throughout the United States is contained in a daily bulletin issued at Washington, which is merely a memorandum that a fraud order has been issued.

Q. Have you examined the various files of this office in reference to letters relating to the fraud orders received from the Assistant Attorney General from September 1, 1911? A. Yes, sir.

Q. Did you find there any fraud order issued against John Grant Lyman?

A. No, sir; neither did I find one against John G. Lyman, and I have no such order on file issued against the mail of John Grant Lyman, or John G. Lyman. If a fraud order had been issued against the mail of the defendant here, it would continue in operation until it was revoked.

(Testimony of Edward F. Dishman.)

Cross-examination.

(By Mr. SCHENCK.)

Q. What period of time did you cover for that fraud order? [843]

A. From March 1911, to date.

Q. Did you look for one against the Panama Development Company?

A. Yes, sir; I found one, the date of it was October 3, 1911.

If mail came addressed to John Grant Lyman and bore on the address reference to the Panama Development Company in such manner as to indicate that it was addressed to John Grant Lyman in his capacity as officer or agent of the Panama Development Company, it would be treated as fraudulent. If it came to John Grant Lyman merely in care of the Panama Development Company and there was nothing to indicate his connection with the company, other than he was receiving his mail at the office of the company, we would deliver that mail.

Q. This refers to the Panama Development Company, its officers or agents as such. Are you given any information as to who are presumed to be or thought to be the officers or agents as such?

A. I do not recall any such cases.

Q. If there was any indication on the face of that envelope that it was business of that corporation addressed to the person, then it would come back?

A. Yes, sir.

Testimony of Eugene Duke Ryan, for Plaintiff.

EUGENE DUKE RYAN, called and sworn as a witness on behalf of the United States, upon direct examination by Mr. Regan testified as follows:

I lived in Panama about 8, or 10 or 11 years on and off. I was connected with the United Fruit Company and Canal Commission, planting bananas for the fruit company and shipping to the states. It was in the district on the Atlantic side from Bocas del Toro and Costa Rica. [844] I remember calling at the office of the Panama Development Co. and meeting the defendant. Dr. Lyman asked when I was going. I told him I was going to Panama Monday, and that was Saturday, and I thought I would leave my trip go and come and see him Monday. I had not bought my ticket and I went to see him Monday. He said he had something that would interest me, as I knew of the company and knew the banana business and knew the Fruit Company's method of planting them. I saw him Monday and he wanted to know if I would go down there for the Panama Development Company, what I needed in the way of money, and to draw up the contract and give it to him. He said that they represented the Panamanian Government as agents, or their representatives here, in disposing of lands, and the Panama Government was represented by two of the high officials there, and the son of one of them was the President—de la Guardia,—Santiago de la Guardia, and the son was Hernan. He said the company had land and that he had 5,000 acres himself personally. I

(Testimony of Eugene Duke Ryan.)

discussed with him the provinces of Cocle, Veraguas and Chiriqui in a general way. I had never been in those provinces up on the Pacific side, except Panama City.

Q. In your conversation with Dr. Lyman before you went to Panama, did you see a map similar to United States Exhibit 60?

A. I saw it in Panama for the first time.

Q. Did you have any understanding with the defendant as to what you were to do when you went to Panama?

A. Yes, I was to secure lands from the Government any way I could, or by private sale, or concession from the Government, any way I could possibly do cheap enough. He said he would get all the information as to what lands were available from Guardia. I was going to cultivate anything that the company decided to cultivate in sugar cane or bananas. [845]

Q. And you never secured any land down there for the Panama Development Company?

A. Never secured any in any way.

Q. How much money was given to you by Lyman, or the Panama Development Company?

A. \$200 here and \$500 down there, the \$500 I got from de la Guardia.

Cross-examination.

I went out looking for land when they sent the money down. That is they paid the case on the check. I went up in Chiriqui. I was out about a month. "I had nothing to do with the company. I had resigned.

(Testimony of Eugene Duke Ryan.)

I went on the possibility that they might make good and send me money to get land and that I wanted to be in the country to know what it was like."

Mr. Guardia had nothing to do with requesting me to look for lands. I was the manager of the Panama Development Company down there, and didn't take any dictation from him.

Q. You started out with the understanding that you would take charge of the selection and cultivation of land and be their manager down there?

A. Yes, sir.

Q. And the money was not coming through fast enough and you got disgusted and quit?

A. My money was all right. It was the money to buy lands. I wouldn't care if I got my money six months behind, so long as the company put up money to buy lands that I was down there for. I would give my information as to Chiriqui, if they came through, later on.

Q. If they came through with money, not to you, but to buy land?

A. Yes. I was to get the lands and if I got the lands, I could turn them over to the company at any time, as there was [846] nothing against my getting the land.

Q. Then you mean to say when you went down, you would go down and prospect around, or cruise around and see what you could find, and if you got in the right place that you thought was right, and they would come through with the money you would take it in your own name and afterwards give it to them?

(Testimony of Eugene Duke Ryan.)

A. Yes, sir; that was the conversation between Dr. Lyman and myself.

Q. Did you ever make a report to him of what you had found which would cause him to send the money down to you?

A. That wasn't hardly necessary to report to him to send money down. That was understood before I left.

Q. I understood you to say that you went down for the purpose of cruising around to see where you could find some available land there to take up, or buy in your own name, or in any way you could, and when you had done so the Company would send you the money?

A. The agreement was I was to get money and then buy it. I was to have all the money I needed to buy land and cultivate it.

Q. When were you to get it?

A. Just as soon as I got down there; it was supposed to be there soon afterwards. There was not any specified time, but I went there with the understanding that there would be plenty of money to carry on business, otherwise no business can be carried on.

Q. What time of the year did you arrive there?

A. It was somewhere between the first and 15th of July, and after I had been there two weeks I cabled my resignation, because they showed no sign of carrying on the business, after [847] sending me down a list of names to say that I took land for them when I hadn't done it.

Q. You mean the letter that is addressed to you

(Testimony of Eugene Duke Ryan.)

here, telling you to write these people that you had taken up land for them?

A. That it is, or rather that I was going to take up land for them.

Government Exhibit No. 218, is the letter I had in mind when I stated this morning I had received a letter directing me to write people saying to them that I had taken up land when I had not. It was with reference to this letter, that I wished to correct my testimony to the effect that instead of telling that I had taken it up, to tell them that (if I wrote at all) I would in the future.

I got the \$500—a thousand it was all together, in a check, but we were waiting to resign before we got that money—we were waiting for the money before we would resign. We made up our minds that there was nothing to it, and I held off until I got the remittance.

Q. Was that \$500 for expenses?

A. It wouldn't buy much land; it was for my expenses.

Q. Who said so?

A. I said so. It was left to my discretion.

Q. What were your expenses in connection with?

A. To go up to Chiriqui and look over the land in the Province of Chiriqui, but after I got the money and after I resigned, I went on my own hook.

Q. And what was the right thing in your opinion?

A. To buy lands as I was sent to do. I was to have unlimited resources and buy land as I saw fit without report or [848] consideration by anyone at

(Testimony of Eugene Duke Ryan.)

all. I was supposed to buy land that was necessary and useful, without consultation with anyone.

Q. You say you never saw a map like three or four maps shown you this morning?

A. No, sir; not until I got to Panama. I don't think I ever saw the plate from which it was made.

Q. Didn't you have a meeting with a man by the name of de Haaff, a printer, and you and he and Mr. Smith discuss and consider the preparation of that map?

A. No; the only discussion I had over a map was to tell him and Dr. Lyman and another man, describing the Pacific Coast, that if it was the same condition as the Atlantic Coast that certain spots would grow certain fruits, but I had never been in that country and I couldn't tell accurately. There are certain places where coffee would grow above 1,500 and under 3,500. That is the only evidence I have about a map.

Q. Then you think if the man who made that map and put those indicators on it indicating the various kinds of land at a particular point on the map where the indicators were placed, states that he, yourself, Mr. Lyman, Mr. Smith, and himself were all together in a conference over the matter, do you think he was mistaken?

A. No. There was a man there and Dr. Lyman.

Q. Then you did see the plate before the map was made?

A. Not the plate; I was just pointing out on the map that was on the wall in the office, pointing out

(Testimony of Eugene Duke Ryan.)

these rivers, and that if the coast was the same as the Atlantic, that certain fruits would grow on certain parts of the country at certain elevations.

Q. Did you have one of Forbes Lindsey's books and one of the other books and use it as a reference where to put the indicator? [849]

A. I had the book printed by the War Department.

Q. You referred to this publication as to the character of the land at the different points to be used as a basis of stocking the indicator points here and there, according to the report, as you say, hearsay evidence, in the book?

A. I only used that as to the altitude—the survey of the coast by the War Department.

Q. And you told them, using the so-called hearsay evidence as a basis,—you indicated to them on the big map that this land would be capable or susceptible of growing this, and this land would be capable of growing that?

A. A general idea. It only took about three minutes.

Q. You knew that the object and purpose of that was to get out a map or to mark it on the big map to be used in the exploitation of the Penama Development Company's business?

A. This land was supposed to be good for coconuts. Only the land that I pointed out was supposed to be good for certain things, provided the conditions of the land on the Atlantic and Pacific coincided. I knew the Atlantic side.

(Testimony of Eugene Duke Ryan.)

“I was to take up land independent of the company. I don’t remember Mr. Guardia saying that they could not acquire lands down there because of a defect in the papers. I don’t mean to say that he did or did not.

Redirect Examination.

There was nothing in my conversation with Mr. Lyman or the other man or with anyone else in which I indicated specifically the places as they appear on the map U. S. Exhibit 60, indicating citrus land, timber land, or sugar land, nor did I mark out those spots or indicate them in any way.”

Testimony of Edward G. Edmunds, for Defendant.

EDWARD G. EDMUNDS, called and sworn as a witness on behalf of the defendant, testified as follows: [850]

Direct Examination.

(By Mr. SCHENCK.)

“I saw a man named Morley in the County Jail about four or five weeks ago, in the boarder’s tank on the upper floor conversing with the defendant. Just as he left, he said: ‘If you know what is good for you, you will kick through with \$100.00.’

Cross-examination.

“In the middle of the conversation I heard something to the effect ‘It would be to your interest.’ I have been in jail fifty-eight days serving a sentence for violation of the postal laws.”

I don’t like Postoffice Inspectors; that is the only ones that I have anything against. I don’t hold any-

(Testimony of Edward G. Edmunds.)

thing against the whole Attorney General's office on account of what one representative did. I don't think that the man who represented the United States Attorney's office when I was sentenced, gave me a fair deal. I hold no particular feeling against Mr. Archibald; he represented the Government in the case and he had Webster (Postoffice Inspector) right behind him. Webster was the man who was after me.

**Testimony of Frederick Charles Jordan, for
Plaintiff (In Rebuttal).**

FREDERICK CHARLES JORDAN, called and sworn as a witness on behalf of the United States, testified in rebuttal as follows:

Direct Examination.

About the beginning of the trial, about eight weeks ago, Mr. Morley and I met the sheriff and were shown through the jail here. In going through the jail we met Dr. Lyman up in the boarders' dining-room. The doctor was just eating his lunch and he came up and spoke to Mr. Morley and got to talking about Klamath Falls. The Doctor asked about several people whom [851] he had met at Klamath Falls; that he wanted to find out a certain party's name, and that he wanted to send him a book. Morley asked for a book and the Doctor gave it to him. Mr. Morley wanted to pay Dr. Lyman for the book, but he wouldn't accept it. That is about all. I was with Mr. Morley when he went through the jail.

Q. Did you hear Mr. Morley say to Dr. Lyman anything in substance as follows: That he, Morley,

(Testimony of Frederick Charles Jordan.)

was down here to testify against Dr. Lyman and that if Lyman would give him a hundred dollars he would say that his, Morley's, testimony would not hurt Lyman? A. No, sir.

Q. And you were with Morley from the time he went into the jail until he came out?

A. Yes, sir, and never left him.

Cross-examination.

There were a number of people close to us. We were mingling with the prisoners.

Q. Did you go into the compartment that has got the cages where they sleep?

A. Yes, sir. Morley went in there and I stayed there just as long as he did.

Q. You barber the prisoners and inmates?

A. Yes, sir.

Q. Didn't you come from the Oak saloon just before you came up to the jail?

A. No, sir; I had not been in the Oak saloon that afternoon. We went to the sheriff's office about half-past eleven, and the interview was between half-past twelve and one o'clock.

Q. Had you been drinking considerable?

A. Well, I had only about three drinks; I am sure it was only three. [852]

**Testimony of John Grant Lyman in His Own
Behalf (In Rebuttal).**

JOHN GRANT LYMAN, recalled in his own behalf, testified in rebuttal as follows:

Direct Examination.

(By Mr. SCHENCK.)

Q. You heard Miss McDonald's testimony about

(Testimony of John Grant Lyman.)

some warrant of arrest in New York?

A. I did. I will explain it. I bought an automobile from Regnault Freres, New York City, for somewhere around \$6,000, and paid them \$2,000 in cash and gave my note for, I think, 60 days for the balance. They took the note to a bank and discounted it. While the bank held the note and before it became due, the bank failed. The bank looked to—the note was not presented to me, but the receiver or whoever acted for the bank, looked to the original people who had discounted the note, for the money, and they gave a check for the amount they had received from the bank. Nothing was said to me whatsoever. And I was going down to Cuba, and at the station, an officer stepped up to me and said, “I have a warrant for your arrest.” I asked him, “On what charge?” and he said “Grand larceny.” I said, “What?” and he said “Of an automobile.” And I was taken down to the police station and I sent for an attorney, and I think right then and there—we were there an hour or two—and it was brought before Justice Goff of the Supreme Court on a writ of *habeas corpus*, and he declared my arrest was an outrage and that the magistrate should not have issued such a warrant on any such charge, and I had a suit pending for \$50,000 for false arrest at the time of my arrest on this charge.

I was not in partnership in Goldfield with Rice *alias* Herzog and a man named Latimer. When the Bull Frog Rush Corporation was organized, I took a working bond on the property, and I spent \$20,000

(Testimony of John Grant Lyman.)

prospecting the property before I made any [853] purchase. The result of that preliminary work encouraged me to pay the first payment of \$50,000 cash. There was a further payment due of \$100,000 in either 60 or 90 days. I continued the work and the results seemed to justify the further payment, and I paid the second payment of \$100,000 to John S. Cook and Company, bankers in Goldfield. During this time that I was working and between the time that I paid the \$50,000 and the \$100,000, George Graham Rice, who was the manager for the M. L. Sullivan Trust Company of Goldfield, had been down to Rhyolite and looked over the property, and he was anxious to promote it and suggested that a corporation be formed and give him the sale of the treasury stock. I agreed to that and entered into a contract to that effect, and the result was that a corporation was formed for the Bull Frog Rush with a capital of either twelve hundred and fifty thousand or a million and a half, and I am not quite certain which. And out of that capital there was put into the treasury either six or seven hundred thousand shares. The balance went to me, representing my payment of \$150,000. I agreed with the Southern Trust Company to donate a hundred and fifty thousand shares to be divided among the various directors, among whom was John S. Cook, president of the bank, *was* president of the company, John ——6——, vice-president, and Jack McDonald, who was a mining engineer of the Sullivan Trust Company and one of the directors, and L. M. Sullivan, who was at the

(Testimony of John Grant Lyman.)

head of the Sullivan Trust Company, was the fourth director, and the fifth director I have forgotten his name. I also set aside a hundred thousand shares, which I agreed to give the Sullivan Trust Company in the event of their selling the treasury stock within a certain period, and they contracted to sell that stock so that it went into the treasury at thirty cents a share. I have forgotten how long [854] the agreement provided, but during that time all the stock that was given to me for my \$150,000 was deposited in this bank, and then we started an active campaign, advertising the stock, and it was sold all over the United States. I had no connection with the company other than having bought the property and having a majority of the stock which, at that time, was lodged in Cook's bank. After the time had expired whereby my stock was tied up in the bank, it was delivered to me and at that time there was a good deal of excitement in Nevada, and money was coming in from all directions and there was an active demand for practically every sort of share, and I decided to sell sufficient of my own stock in order to get back the \$150,000 that I had put in. I may say to you that I had the property examined by two presumed experts. One was Professor Bailey and I forget the other man's name. He was a prominent man. I paid \$1,500 for the examination. Their report was highly favorable. There was supposed to be a vein three hundred feet wide between two well-defined walls and the rock stuck up there like ice in a stream, and you could go across any-

(Testimony of John Grant Lyman.)

where with an ordinary hammer and break off a piece and wash it and get the color of gold. The statements regarding the property were that it was a bonanza; that it would unquestionably pay dividends for a century; and that in all respects it was a very fine mine. And I may tell you that I was loco myself as much as all the others, to such an extent that I looked at a million dollar lot at the corner of 63d Street in New York City and proposed to buy it out of my profits of the mine. I started to advertise the thing and it was advertised extensively in Los Angeles, using whole pages in the Los Angeles "Times" and "Examiner," and also in San Francisco. And a large amount of stock was sold all over California around San Francisco, as well as through various parts of the country. About [855] this time, when it was going particularly well and looked as though—I may say the shares advanced from 55 cents up around \$1, and it looked as if they might go as far as we wanted them to. I came down and I saw Sam Boston who was a foreman on the property, on the Comstock, and he asked me if I had much money in it, and I told him I had and he said "You had better get it out"; that it isn't worth the powder to blow it to hell." Of course, I was greatly shocked at the idea because I looked forward to deriving a great fortune out of it. I asked him why he said it, and he said it was nothing more than a blow-out; that they would soon come into country rock. I suggested that he might sink down to see if there was anything in that—whether it was country

(Testimony of John Grant Lyman.)

rock or not,—or whether the vein would continue. That work was started. In the meantime I was receiving a good many subscriptions for my stock. I had nothing to do with the stock that the Sullivan Trust Company was selling. It was some shares that I was selling and I had applications for and had sold approximately \$150,000 worth, which was going to get me out. When I got word from Mr. Boston saying that they were in the country rock, and that in his opinion the mine wouldn't amount to anything, in view of the fact that I had made extravagant statements regarding the value of the property, and that it would be a dividend payer for a long time, and as a matter of fact, had not *been* delivered but a small part of the certificates, I felt that those who had applied for shares were not getting a fair run for their money. I talked the matter over with an attorney and he said if I would keep on developing that I would be quite safe in keeping the money. But in view of the fact that so many had applied and I actually [856] had not delivered these certificates, when I found that it was of no value, I considered that receiving that money was practically robbery, and I never have been engaged in robbery, and, therefore, I returned all that money that I received from that Bull Frog Rush, and I repeat here that every dollar that I received from the Bull Frog Rush stock was returned to the purchasers, and that I lost the sum of \$150,000. And as that matter has been questioned here, I will say that if they put a single individual to whom I sold Bull Frog Rush, on the

(Testimony of John Grant Lyman.)

stand here and they state that I didn't refund the money, I will stand here a self-confessed liar. I lost \$100,000, as a matter of fact. It was practically after I returned all this money that this Sheftels graft came up. I had an arrangement with Sheftel whereby any shares closed at 70, they received them at 55, and I made a bid in the San Francisco stock exchange and also in Goldfield, to take any shares sold by the public at 70, but I had an ironclad agreement with these brokers that they were not to buy the shares and hand them back to me through their clerks in their offices, nor were they to buy through other brokers, and I discovered that Sheftels was buying shares from me, and handing them back to me through clerks in their office. At the time this Sheftels graft was presented, I had practically all of the Bull Frog Rush stock in my office except such stock as Rice had which he was getting from the treasury at 30 cents. He sent out, I have forgotten how many shares, but I think it was 5,000, also in connection with some original Gold Bar, and they forwarded that with a draft which was in direct violation with their agreement with me, and their agreement provided that in the event of their buying stock under their call and handing it to me, that I could repudiate, which I did, and that is what happened when that graft was done, in direct violation of his agreement. [857] He was getting the stock from Rice at thirty cents and selling it to me at seventy, instead of selling it to *bona fide* customers. I had an agreement that if the public bought the stock and

(Testimony of Bernard McConville.)

wanted to sell, it was up to me through the stock exchange to buy it, but they were not expected to sell directly back to me after buying it under their call.

Testimony of Bernard McConville, for Plaintiff (In Rebuttal).

BERNARD McCONNVILLE, a witness called and sworn on behalf of the United States, testified in rebuttal as follows:

Direct Examination.

I live in New York City. My business is that of Lieutenant of Police and have been so over twenty years. In the years 1909–1911 I was a detective and assigned to investigate “get rich quick” schemes, bucket-shops and financial swindles. I followed that line of work about 12 or 14 years.

Q. Do you know the reputation of the defendant—the general reputation—for truth, honesty and veracity in the community there in New York?

A. Yes, sir; it is bad.

The foregoing contains a correct statement of all the testimony given in the case.

After argument the Court read to the jury the following instructions:

Instructions of Court to Jury.

“To constitute the offense charged in the first count, three things are necessary: First, that the defendant devised the scheme therein described; second, that said scheme was one to defraud; third, that said defendant, for the purpose of executing said scheme, placed, or caused to be placed, in the

postoffice at Los Angeles, California, to be sent and delivered by said postoffice establishment, the letter in said count described. [858]

If you are satisfied from the evidence, beyond a reasonable doubt, of the existence of the three constituents which I have enumerated, you will find the defendant guilty as charged in said first count. If, however, the evidence fails to so satisfy you of said constituents, or either of them, you will find the defendant not guilty as charged in the first count.

The instructions which I have given you with reference to the first count apply also to the remaining five counts, except, that, in order to justify a conviction on any one of said five counts, the evidence must show, besides the other elements of the offense, that the defendant placed or caused to be placed in said postoffice, to be sent and delivered by said postoffice establishment, the letter mentioned in such count.

You are further instructed, that the official postmark of the Los Angeles postoffice, appearing on some of the letters set up in the indictment, and which have been introduced in evidence, are *prima facie* proof that said letters were mailed at said postoffice.

The Court further charges you, that, while you must follow its instructions as to the law of the case, you are the sole judges of the facts and the credibility of witnesses, and, if the Court expresses an opinion or comments either upon the facts or credibility of witnesses, you are not bound by such

opinion or comment, but should exercise your own independent judgment on such matters.

Among the circumstances to be considered by you in passing upon the credibility of witnesses are, so far as shown by the evidence, their character and conduct, their relation to the case and its parties, their motives, their manner, attitude, and demeanor upon the witness stand, their fairness and intelligence, their bias or impartiality, the strength or weakness of their recollection, the reasonableness of their statements, and [859] all other facts in the case. You should also look to the interests which the witnesses have in the suit or its result.

The law permits the defendant, at his own request, to testify in his own behalf. The defendant here has availed himself of this privilege, and his testimony is to be treated like the testimony of any other witness,—that is, it is for you to say, remembering the circumstances just enumerated as bearing upon the credibility of witnesses, whether or not he told the truth. The deep personal interest which he has in the result of the suit should be considered by the jury in determining how far and to what extent his testimony is worthy of credit.

If any of the witnesses are shown knowingly to have testified falsely on this trial touching material matters here involved, the jury are at liberty to reject the whole or any part of their testimony.

You are instructed that the defendant in this case is entitled to the individual opinion of each member of this jury and that no member of this jury should vote for a conviction of the defendant because of the

opinion of the other members of the jury so long as he has a reasonable doubt as to the guilt of the defendant, but this does not mean that you should not consult together and try to agree upon a verdict.

The Court further instructs you, that the burden of proof is on the Government, and that the law presumes the defendant innocent until proven guilty beyond a reasonable doubt, and that this rule applies to every material element of the offense charged. The Court further instructs you, that a reasonable doubt is one which is reasonable in view of all the evidence, and if, after an impartial comparison and consideration of all the evidence, you can candidly say you are not satisfied of the defendant's guilt, you have a reasonable doubt; but if, after such impartial comparison and consideration of all the evidence. [860] you can truthfully say that you have an abiding conviction of the defendant's guilt, such as you would be willing to act upon in the more weighty and important matters relating to your own affairs, you have no reasonable doubt.

You may acquit or convict the defendant on one or more or all of the counts of the indictment as the evidence requires. If you acquit him on all the counts, your verdict will be a general verdict of not guilty. If you convict him on all of the counts, your verdict will be a general verdict of guilty as charged in the indictment."

The defendant in this case is charged with having placed and caused to be placed in the United States Postoffice in the city of Los Angeles, State of Cal.,

to be sent and delivered by the P. O. establishment of the U. S. certain letters for the purpose of executing a scheme to defraud, alleged to have been previously devised by him. This scheme is fully set forth and described in the indictment which has been read to you and which you will have with you in the jury room, and which, therefore, need not be recited here.

The Court further instructs you that the rule of law applicable to criminal prosecutions for obtaining money or property by false pretenses, namely the representation or pretense must be of some existing fact and not a mere expression of opinion or a mere promise as to the future, and that the fraudulent purposement be something more than an intention not to carry out a promise of contract, does not apply to this case.

The section of the criminal code under which this prosecution was brought denounces as a crime the mailing or causing to be mailed of a letter in the execution of a scheme to defraud.

The evil sought to be remedied is always important in determining the meaning of a statute. It is common knowledge that nothing is more alluring than the expectation of receiving large returns on small investments. [861] Eagerness to take the chances of large gains lie at the foundation of all lottery schemes, and even when the matter of chance is eliminated, any scheme or plan which holds out the prospect of receiving more than is parted with, appeals to the cupidity of all.

In the light of this, the statute must be read, and so read it includes everything designed to defraud by

representations as to the past or present, or suggestions and promises as to the future. Thus, it will also be seen that one of the significant facts is the intent and purpose to defraud without which there can be no conviction.

The Court further instructs you, that, if the representations intended to be made as alleged in the indictment were false, but defendant honestly believed them true, then said representations would not be fraudulent. If, however, such representations were false, and defendant, knowing their falsity, or not believing them true, intended they should be made to deceive and induce the persons whom they were to be made to send or pay money to the Panama Development Company, then said scheme was one to defraud.

The Court further instructs you, that, while ordinarily one person is not answerable for the acts or declarations of another, yet the defendant in a criminal as well as a civil action is responsible for any act done or representation made by his command or procurement the same as if said act was done or representations made by him personally. The proof of the command or procurement may be direct or indirect, positive or circumstantial.

You are further instructed with reference to the proof of mailing the letters set up in the indictment, that it is not essential to the commission of the offense charged that such [862] letters be deposited in the mail by the defendant himself, or even by another acting under his express direction because a person is equally responsible for the mailing of any

particular letter *it is* is deposited in the P. O. as a natural and probable consequence of any act intentionally done by such persons with knowledge, at the time thereof, that such act will naturally and probably result in the mailing of such letter.

You are further instructed that a person is responsible for the mailing of any letter if he sets in operation and makes use of an agency, which, as he knows at the time, would, according to its established and regular course carry such letter through the mail to the person or persons to whose attention he designed and intended such letter should be brought.

Evidence has been offered of the concealment, escape and flight of the defendant. On this subject the Court instructs you that acts of concealment, escape or flight by an accused, are competent to go to the jury as tending to establish guilt, but they are not to be considered as alone conclusive or as creating a legal presumption of guilt, but only as circumstances to be considered and weighed in connection with other proof with the same caution and circumspection which their inconclusiveness when standing alone, requires.

The Court further instructs you that the presumption of guilt arising from concealment, escape or flight of the accused is a presumption of fact—not of law—and is merely a circumstance tending to increase the probability of defendant's guilt, which is to be weighed by the jury like any other evidentiary circumstance.

You are further instructed that it is not incumbent

upon the Government to prove every element of the scheme to defraud, [863] alleged in the indictment, but it is sufficient in that particular of a scheme to defraud is shown to have been devised, and that such scheme is substantially that described and set out in the indictment.

The Court, having read to the jury its written instructions and the Court having refused to give the instructions, requested by the Government, and also the instructions requested by the defendant, except in so far as they may be embodied in the instructions given by the Court, it is ordered that the exceptions be, and they hereby are, noted herein on behalf of the defendant, to each and every one of the instructions given by the Court and to the refusal of the Court to give each and every one of the instructions requested by the defendant, which the Court refused to give.

Subsequently at 5:09 P. M. the Jury again returned into Court. A poll of the jury shows all to be present.

The CLERK.—Gentlemen of the Jury, have you agreed upon a verdict?

The FOREMAN.—No, sir.

Juror BROWNSTEIN.—We would like to be enlightened in regard to the alleged intent of the defendant to defraud. Are we to consider his intent at the time of organizing the Panama Development Company, or at the time the several letters in the indictment were written or mailed, or at any subsequent time?

Replying to the question which you have propounded to me, I instruct you that the mailing of a letter without the fraudulent intent would be no crime. If, however, the evidence satisfies you beyond a reasonable doubt that the fraudulent intent was in the mind of the defendant before the mailing of any one of the letters mentioned in the indictment, then, as [864] to the count in which that letter is set forth, the fraudulent intent is sufficiently established.

(By direction of the Court an exception on behalf of the defendant was entered to the giving of the said last named instruction. The Jury retire for further deliberation.) [865]

**(Instructions Requested by the Defendant and
Refused by the Court.)**

The following are the instructions requested by the defendant and which the Court refused to give to the jury:

(a) The Court instructs you, that if any of the representations alleged in the indictment to have been made were false, but the defendant honestly believed them to be true, then such representations were not fraudulent. .

(b) You are further instructed that if the alleged representations or some of them were not intentionally false, the fact that the alleged scheme failed because of mistakes or lack of judgment, if such caused its failure, does not make the defendant guilty. You should not find the defendant guilty for mere errors of judgment or overconfidence in his

ability to make the alleged scheme a success.

(c) You are instructed that the defendant John Grant Lyman, in this case is not to be charged with or held criminally responsible for the act or acts of any person connected with the Panama Development Company unless you believe from the evidence, beyond a reasonable doubt, that the said John Grant Lyman counseled, aided, encouraged or otherwise, with a knowledge of the facts, caused such act to be done or omitted.

(d) Evidence has been given in this case touching the escape and attempted escape of the defendant from the custody of the law. Such evidence is given before you as tending in some degree to indicate a consciousness of guilt on the part of the defendant, but I caution you that such evidence is considered, in law, of the weakest kind, and, being based upon an inference, may or may not tend to show a consciousness of guilt, and taken in consideration with other evidence in the case, may or may not be of any import.

(e) You are instructed that for a person to escape from [866] the custody of the law, or to attempt so to do, or to take flight instead of standing trial, is not sufficient, standing alone, to warrant or justify a conviction.

Such evidence is adduced upon the theory that from it may be drawn an inference of a consciousness of wrong doing, but such inference may be wholly repelled by other facts and circumstances in the case, or by some satisfactory explanation of the reason prompting such action, and of all these matters, the

jurors are the sole judges.

(f) The indictment in this case contains six counts, all of which are substantially the same, except in so far as a different letter is set forth in each count as being the letter which was deposited in the postoffice in furtherance of the alleged scheme.

You must not suffer yourself to hold the defendant responsible for the depositing of any such letter in the postoffice unless, from all the evidence, you believe beyond a reasonable doubt, that he either did deposit such letter, or caused the same to be deposited as it is charged in the indictment, and if you have a reasonable doubt whether the defendant did or did not deposit, or cause to be deposited any one of the several letters set forth in the indictment, then as to that particular count or counts, you must acquit the defendant.

(g) You are instructed that by the words "intent to defraud" it is meant in law that the person charged had an intent to deprive one of something dishonestly or to obtain an unconscionable advantage, therefore, if you have a reasonable doubt whether this defendant had such intention or not, you must give him the benefit of such doubt and acquit him.

(h) You are instructed that in law there is a marked distinction between an intention to deceive and an intention to [867] defraud, and in this although you may be convinced that the defendant intended to deceive, you must acquit him if you have a reasonable doubt whether he intended to defraud, or not.

(i) In a criminal case where a chain of circumstances is relied upon to secure a conviction and any one necessary link of that chain is made by a circumstance which, when considered in the light of all the circumstances proved, is as consistent with innocence as it is with guilt, the said circumstance must be resolved in favor of innocence; that link must fail; the chain must break and the defendant be acquitted.

(j) You are instructed that you must not suffer yourself to be prejudiced against the defendant because of the fact that he is charged with this offense, and you must not suffer yourself to be led to convict the defendant for fear that a crime may go unavenged, or for the purpose of deterring others from the commission of like offenses.

No such arrangement or reason can be weighty enough to justify you in laying aside or ignoring that just and most human rule of law which says that you must acquit the defendant unless every fact necessary to establish his guilt has been proven to you beyond a reasonable doubt.

(k) In considering the weight and effect to be given to the evidence of the defendant, while you may consider his manner, and the probability of his statements, taken in connection with all the evidence in the case, and, if convincing and carrying with it a belief in its truth, act upon it; if not, you have the right to reject it. But this does not mean that you have a right to arbitrarily reject it. And, in judging of the defendant who has testified before you, you are in duty bound to presume that he has spoken the truth; and, unless that presumption has been

legally repelled, his evidence is entitled to full credit.

(l) It is not your duty to look for some theory upon [868] which to convict the defendant, but on the contrary, it is your duty and the law requires you, if you can reasonably do so, to reconcile any and all facts and circumstances that have been shown, with the innocence of the defendant and acquit him.

(m) You are instructed that defendant in this case is not to be presumed to know anything because he ought to have known it. The presumption of innocence with which the law clothes the defendant, is sufficient to overcome a presumption which might prevail in a civil case that he knew because he ought to have known.

(n) You are instructed that the various counts of the indictment in this case charge substantially the same offense, the only difference being that each count sets forth a different letter as having been deposited in the mails.

The essential elements of this offense are the devising or intention to devise a scheme or device for the perpetration of a fraud, and the use of the United States mails in furtherance of such scheme or device, and this is the only offense which is before you for your consideration, and in considering the same you have only the right to consider such evidence as has been permitted to come before you in the courtroom.

(o) If, after the entire comparison and consideration of all the evidence, it leaves you in that condition that you cannot say you feel an abiding con-

viction, to a moral certainty, of the truth of the charge, you must acquit the defendant. The burden of proof is upon the prosecution. All the presumptions of law independent of evidence are in favor of innocence; and every person is presumed innocent until he is proved guilty. If upon such proof there is reasonable doubt remaining, the accused is entitled to the benefit of it by acquittal. For it is not sufficient to establish a probability, though a strong one arising from the doctrine of chances, that the fact charged [869] is more likely to be true than the contrary, but the evidence must establish the truth of the fact to a reasonable and moral certainty; a certainty that convinces and directs the understanding; and satisfies the reason and judgment of those who are bound to act conscientiously upon it.

(p) You are instructed that this defendant is charged with an offense which has for one of its component parts and essential elements, a certain specific intent, to wit: an intent to defraud. In such a case the law raises no presumption from the commission of the act that it was committed with that certain specific intent. Whether it was committed at all or not, and if committed, whether it was committed with that certain specific intent or not, are matters to be determined by you from all the evidence in the case.

(q) You are instructed that where the law makes an act criminal only when done with a certain specific intent, such as an intent to defraud, then it

becomes necessary for the prosecution to prove to you beyond a reasonable doubt that the defendant committed the act, if at all, with that specific intent. In arriving at your conclusion as to this intent, you are to take into consideration all the facts and circumstances connected with the case, such as the presumption of the innocence of the defendant, the good character if proved, his acts and conduct in and concerning the matter and the possibility or impossibility of a consummation of such intent by the means and methods used as charged in the information.

(r) If, from the evidence, you believe the crime charged was in fact committed by someone, and you, from the evidence have a reasonable doubt whether it was the defendant or someone else who committed it, you must acquit the defendant. [870]

(s) You are instructed that the testimony of one person as to what another person said ought to be viewed with caution.

(t) With respect to all verbal admissions, declarations or conversations, evidence of them should be received with great caution, consisting as it does in the repetition of oral statements which is subject to much imperfection and mistake the party himself being misinformed or not having expressed his own meaning, or the witness having misunderstood him, or from the infirmity of human memory. It frequently happens also that the witness unintentionally altering a few of the expressions really used, gives an effect to the statement completely at variance with what the party actually did say. And especially,

where the witness has not heard all the admissions, declarations or conversations, and testifies as to only parts of them, should caution be exercised. It then becomes very unsatisfactory and imperfect evidence—the lowest grade of evidence. And our statute provides: “That the evidence of the oral admissions of a party ought to be viewed with caution.”

(U) You are instructed that the defendant in this case is charged with “knowingly” doing a certain thing, and you are further instructed that, in law, whenever the word “knowingly” is used in connection with the definition of any prohibited act or omission, it means that the person sought to be charged with the offense, at the time it is alleged to have been committed, was actually possessed of and actually had knowledge of the existence of facts which brought this act or omission within the law prohibiting such act or omission.

(v) In every crime or offense there must exist a union or joint operation of act and intent, or criminal negligence. The law does not hold a man responsible criminally for an act done without guilty intention, no matter what that act may be. [871] So in this case the law will not hold the defendant criminally responsible for the act charged, unless at the time he committed that act, he had a guilty intention to commit it. If you have a reasonable doubt whether he did have such guilty intention, you must acquit him.

(w) You are instructed that the defendant is by law presumed to be a man of good character in the absence of any evidence to the contrary. Such pre-

sumption of good character coming as it does in aid of the general presumption of innocence, is no more to be left out of view by the jury in their deliberations than is the original presumption of innocence which the law gives him.

The good character of the defendant which the law presumes, is itself a fact in the case. It is a circumstance tending in a greater or less degree to establish defendant's innocence; and it is not to be put aside by the jury in order to ascertain if the other facts and circumstances considered by themselves do not establish his guilt beyond a reasonable doubt, but his good character must be considered by you in determining whether or not the defendant is guilty. And after considering such presumptions of good character, together with all the evidence, if the jury entertain a reasonable doubt as to the guilt of the defendant, you must give him the benefit of such doubt and acquit him.

(x) Every public offense for which a person may be prosecuted consists of one or more essential elements, and it is necessary for the prosecution to prove to you beyond a reasonable doubt every one of these essential elements, and if they fail to do so, the defendant is entitled to a verdict of not guilty, or if from all the evidence you have a reasonable doubt as to any [872] essential element, it is your sworn duty to give the defendant the benefit of such doubt and acquit him.

(y) You are instructed that a witness false in one part of his testimony is to be distrusted in others, that is to say, the jury may reject the whole testi-

mony of a witness who has wilfully sworn falsely as to a material point and the jury, if it be convinced that a witness has stated what was untrue, not as a result of inadvertence, but wilfully, and with the design to deceive, must treat all his testimony with distrust and suspicion.

(z) In judging of the credibility of the various witnesses who have testified before you in this case and in determining what weight and credit you shall give to their testimony, you have the right, and it is your duty, to take into consideration their interest in the case, if any; their character and conduct; their appearance upon the witness-stand; and their manner of testifying; their candor, fairness or intelligence, or lack thereof; their relation to the parties, their bias or impartiality; the strength or weakness of their recollection; the inherent probability or improbability of their statements, and all other facts and circumstances appearing at the trial.

You are the sole and exclusive judges of the credit to be given to the testimony of the different witnesses who have appeared before you and you are not bound to believe anything to be a fact merely because a witness or any number of witnesses state that such is the fact, provided that you believe from the evidence that such witness or witnesses are mistaken or have knowingly testified falsely.

(z $\frac{1}{2}$) If, after a consideration of the whole case, any juror should entertain a reasonable doubt of the guilt of the [873] defendant it is the duty of such juror so entertaining such doubt not to vote for a verdict of "guilty," nor to be influenced in so vot-

ing, for the single reason that a majority of the jurors or even all the other jurors should be in favor of the verdict of guilty. The defendant is entitled to the individual opinion of each and every juror and no juror should surrender his opinion merely because the other jurors disagree with him therein, so long as he has a reasonable doubt.

This does not mean that you shall not fairly and impartially discuss the whole case together in order that you may agree upon and render a true and just verdict.

That thereafter the jury rendered a verdict of guilty on the first count, and a verdict of not guilty on the second, third, fourth, fifth and sixth counts of the said indictment. At the request of the defendant the Court duly and regularly continued the sentencing of the said defendant from time to time until the 9th day of January, 1914.

That thereafter, on the 9th day of January, 1914, the defendant filed his motion for a new trial herein, said motion being in words and figures as follows, to wit:

Comes now the defendant, John Grant Lyman, and moves this Honorable Court that he be granted a new trial, and for grounds of this motion alleges:

A: That the Court misdirected the jury in questions of law.

B: That the Court erred in decisions of questions of law arising during the course of the trial.

C: That the verdict is contrary to the law.

D: That the verdict is contrary to the evidence.

E: That the verdict is contrary to the law and the evidence. [874]

F: That the evidence is insufficient to justify the verdict.

G: That the Court erred in refusing each and every instruction requested by the defendant and refused by the Court.

H: That the Court erred in giving each and every instruction requested by the prosecution and given by the Court.

I: That the Court erred in modifying each and every instruction requested by the defendant and modified by the Court, and thereafter given as modified by the Court.

That the Court denied the said motion for a new trial and the defendant then and there duly and regularly took an exception, which said exception was duly and regularly allowed by the Court.

That thereafter, on the 9th day of January 1914, defendant duly and regularly presented a motion in arrest of judgment, which motion was upon the following grounds, to wit:

Comes now the defendant John Grant Lyman, by Paul W. Schenck, his attorney, and moves the Court to arrest judgment herein, and for grounds of this motion alleges:

A: That the facts stated in the said indictment, and in Count I of said indictment, do not constitute a public offense or public offense against the United States or the laws thereof.

B: That the facts stated in said indictment and in Count i, contained in said indictment, do not con-

stitute a violation of any statute or statutes of the United States. Said motion was denied by the Court, and the defendant then and there duly and regularly took an exception to the action of the Court in that particular.

That thereafter, on the said 9th day of January, 1914, the defendant being present in court with his attorney, the Court duly and regularly pronounced sentence upon the defendant [875] and adjudged that he be confined in the penitentiary at San Quentin for one year and three months.

That thereafter, the defendant duly and regularly filed in this court a petition for a writ of error, accompanying the same with his assignments and specifications of error; that said petition for a writ of error was thereafter allowed, and said writ of error thereafter duly and regularly issued.

That the Court duly and regularly fixed a supersedeas bond in the sum of Twenty Thousand (\$20,000.00) Dollars.

That upon the issuance of the writ of error returnable before the United States Circuit Court of Appeals, for the 9th Circuit, a citation was duly and regularly issued herein.

That thereafter, and from time to time, the Court duly and regularly entered its orders in said cause, allowing the defendant time within which to prepare, serve and file his proposed bill of exceptions in said cause, and the time within which to file the record on appeal in said cause with the clerk of the United States Circuit Court of Appeals for the 9th Circuit.

The defendant hereby presents the foregoing as his proposed bill of exceptions herein, and respectfully asks that the same may be allowed.

PAUL W. SCHENCK,
JOSEPH CITRON,

Attorneys for Defendant,

To ALBERT SCHOONOVER, Esq., United States
District Attorney:

Sir: You will please take notice that the foregoing constitutes and is the Bill of Exceptions of the defendant in the above-entitled action and that the defendant will ask the allowance of the same.

PAUL W. SCHENCK,
JOSEPH CITRON,

Attorneys for Defendant. [876]

Stipulation Re Bill of Exceptions.

It is hereby stipulated that the foregoing Bill of Exceptions is correct and that the same be settled and allowed by the Court.

PAUL W. SCHENCK,
JOSEPH CITRON,

Attorneys for Defendant,

ALBERT SCHOONOVER,

U. S. Atty.

HARRY R. ARCHIBALD,

Asst. U. S. Atty.,

Attorneys for United States.

Order Approving Bill of Exceptions.

This Bill of exceptions having been duly presented to the Court, and having been amended to correspond to the facts, is now signed and made a part of the records in this cause.

Dated this 4th day of December, 1914,

OLIN WELLBORN,

Judge. [877]

In the United States District Court in and for the Southern District of California, Southern Division. 672—Crim. United States of America, vs. John Grant Lyman. Bill of Exceptions. Paul W. Schenck, Joseph Citron, Attorneys for Defendant. Filed Dec. 4, 1914, at 3 min. past 3 o'clock P. M. Wm. M. Van Dyke, Clerk. By Murray C. White, Deputy. [878]

In the District Court of the United States, in and for the Southern District of California, Southern Division.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN GRANT LYMAN,

Defendant.

Petition for Writ of Error.

Your petitioner, John Grant Lyman, the defendant in the above-entitled cause, brings this, his Petition for Writ of Error, to the District Court of the United States, in and for the Southern District of California, Southern Division, and in that behalf your petitioner says:

That on the 11th day of December, 1913, there was given, rendered and entered in the above-entitled court, a verdict against your petitioner, wherein and whereby your petitioner, the said John Grant Ly-

man, was found guilty of the first count of the indictment of the above-entitled case. That thereafter, on the 9th day of January, 1914, your petitioner was sentenced to imprisonment in the penitentiary at San Quentin, California, for the period of fifteen months; and your petitioner says that he is advised by counsel and avers that there was and is manifest error in the record and proceedings had in such cause and in the making, giving, rendition and entry of such judgment and sentence, to the great injury and damage of your petitioner, all of which error will be more fully made to appear by an examination of the said record, and by an examination of the bill of exceptions to be hereafter by your petitioner tendered and filed, and in the assignment [879] of errors hereinafter set out, and to the end hereafter that the said judgment, sentence and proceedings may be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit, your petitioner now prays that a writ of error may be issued, directed therefrom to the said District Court of the United States for the Southern District of California, Southern Division, returnable according to law and the practice of the Court, and that there may be directed to be returned, pursuant thereto, a true copy of the record, bill of exceptions, assignment of errors, and all proceedings had and to be had, in said cause; that the same may be removed unto the United States Circuit Court of Appeals for the Ninth Circuit, to the end that the error, if any has happened, may be duly corrected and full and speedy justice done your petitioner.

And your petitioner now makes the assignment of errors attached hereto, upon which he will rely and which will be made to appear by a return of the said record in obedience to said writ.

WHEREFORE, your petitioner prays the issuance of a writ as herein prayed, and prays that the assignment of errors annexed hereto may be considered as the assignment of errors upon the writ, and that the judgment rendered in this cause may be reversed and held for naught, and that said cause may be remanded for further proceedings and that he be awarded a supersedeas upon said judgment and all necessary process, including bail.

JOHN GRANT LYMAN,

Petitioner.

PAUL W. SCHENCK,

Attorney for the Defendant.

[Endorsed]: Original. No. 672—Crim. In the United States District Court for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. John Grant [880] Lyman, Defendant. Petition for Writ of Error. Filed February 6th, 1913. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Paul W. Schenck, 619 to 626 Homer Laughlin Building, Los Angeles, Cal., Attorney for Defendant. [881]

*In the District Court of the United States, in and
for the Southern District of California, South-
ern Division.*

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN GRANT LYMAN,

Defendant.

Assignment of Errors.

JOHN GRANT LYMAN, the defendant in the above-entitled cause and plaintiff in error herein, having petitioned for an Order from said Court permitting him to procure a writ of error from this Court directed to the United States Circuit Court of Appeals for the Ninth Circuit, from a judgment and sentence made and entered in said cause against the said John Grant Lyman, plaintiff in error and petitioner herein, now makes and files with his said petition, the following assignment of errors herein upon which he will rely for a reversal of said judgment and sentence upon the said writ, and which said errors and each and every of them are to the great detriment, injury and prejudice of the said defendant and in violation of the rights conferred upon him, and he says that in the record of proceedings had in the above-entitled cause upon the hearing and determination thereof in the District Court of the United States for the Southern District of California, Southern Division, there is manifest error in this, to wit:

I.

That the Court erred in overruling the objections of the defendant to the introduction of Government's Exhibit I, which said Exhibit reads as follows:

HOTEL ALEXANDRIA.

Los Angeles, April 19, 1911. [882]

(In pencil) Credit attach "*wire if not paid.*"

S. I. Co. RECEIVED Apr 20 1911

Ck 50

Credit 50-P C hg 50-P

1613

Answered Apr 21 1911

Stoddard Incorporating Co.,

Phoenix, Arizona.

Gentlemen:

Please incorporate a company, entitled

PANAMA DEVELOPMENT COMPANY

with an authorized capitalization of \$1,000,000.00, par value of shares \$10.00 date of annual meeting of stockholders first Tuesday in February;

As to the names of the directors, cannot you temporarily supply three, as am not yet sure who will act and so would prefer deferring naming them for the present? Enclosed herewith find check for \$50.00 to cover.

Shall hope to hear from you in a few days in response to mine of April 17th, regarding the Wyoming Oil & Development Company, which we want to transform into the Wyoming Oil & Refining Company and get part of the property which has been deeded to the Wyoming Oil & Development Co., and so recorded in Wyoming, into the possession of the

new Wyoming Oil & Refining Co.

Yours very truly,
J. G. LYMAN.

[Endorsed]: U. S. Exhibit I.

—said objections to said introduction being taken as follows, to wit: that the said letter is incompetent by reason of its method of production. And the defendant's exception to the ruling on said objection was duly and regularly taken and allowed.

II.

That the Court erred in overruling the objections of the defendant to the introduction of Government's Exhibit II, which [883] said exhibit reads as follows:

STODDARD INCORPORATING COMPANY.

Isaac T. Stoddard, President,
Phoenix Arizona.

Celora Martin Stoddard,
Secretary and Treasurer.

21st April, 1911.

Mr. J. G. Lyman,
Hotel Alexandria,
Los Angeles, California.

Dear Sir:

Please accept our thanks for your valued favor of the 19th instant, enclosing cheque for \$50. in payment for the incorporation of the Panama Development Company, which has been duly received.

We note your suggestion that we proceed with the incorporation of the company and furnish a dummy board of three directors. It is contrary to our regulations to furnish such dummy directors and it

really is of no advantage to a company inasmuch as the corporation cannot carry on any business through anyone but its temporary board. There would have to be the meeting of such dummy board of directors at which their successors would be elected. Therefore, there really is no advantage in proceeding in this way.

Be assured that upon receipt of your further instructions and the names of the parties you wish to have serve as the first board of directors, we will immediately proceed with the incorporation of your company.

We trust that you have received our reply to your letter of the 17th instant and that our efforts in your behalf are of service to you.

Awaiting your further valued, favor we remain,

Yours, very respectfully,

CELORA M. STODDARD,

Secretary.

Dict. S/P.

[Endorsed]: U. S. Exhibit 2. [884]

—said objections to said introduction being taken as follows, to wit, to which we object on the ground that it is incompetent, irrelevant, immaterial and no foundation laid, and upon the further ground, if your Honor please, that at this time we desire to make an objection, which will probably be before the Court a great many times, and that is this: We offer to show at this time that every document and paper either of the Panama Development Company, or of this defendant, are in the hands of the Government at this time by virtue of no power or

process of this court or of any other court, but simply seized by the officers of the Government without any right or authority, in violation of both the fourth and fifth amendments to the Constitution of the United States, and that each of the documents and papers thus seized—maps, pamphlets, papers—were seized, I say, from the possession of the defendant himself, or from the possession of the Panama Development Company and that they cannot be used in this court as evidence for the reason that they are here in court in violation of the Constitution with reference to unreasonable searches and seizures, and in violation of the other amendment, that no person shall be obliged to produce evidence or furnish evidence against himself. Now, then, if your Honor please, the whole matter rests practically upon the decision of the United States versus Boyd in the 116 United States, where they held that such papers and documents as that cannot be introduced in the trial, and if there is any dispute on the question of whether the papers were secured by process of any court whatsoever, we offer at this time to prove that they were not. I understand however, that in the statement of the worthy prosecutor herein, in his opening statement, he stated that some of the documents that are produced were taken from the office of the Panama Development Company by the authorities, and this court knows that there has no process been issued; it is a matter of judicial [885] knowledge, and this Court has issued no process to warrant their seizure. And the defendant's exception to each and all of the rul-

ings on said objections were duly and regularly taken and allowed.

III.

That the Court erred in overruling the objections of the defendant to the introduction of Government's Exhibit III, which said exhibit reads as follows:

HOTEL ALEXANDRIA.

Los Angeles, April 28, 1911.

Stoddard Incorporating Co.,

Phoenix, Arizona.

Gentlemen:

On April 19th, I sent you check for \$50., together with papers, requesting the incorporation of the PANAMA DEVELOPMENT COMPANY. Will you kindly proceed with the same and elect as directors;

E. A. LYNN,

W. H. Barry,

and they will elect the third member here.

Yours very truly,

JOHN G. LYMAN.

Incorp. Co. Apr. 29 1911 (In blue pencil).

[Endorsed]: U. S. Exhibit 3.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of this letter upon the same grounds urged in the introduction of exhibit II, to wit, that it is incompetent by reason of its method of production. And the defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed:

IV.

That the Court erred in overruling the objections of [886] the defendant to the introduction of Government's Exhibit V, which said exhibit reads as follows:

PANAMA DEVELOPMENT COMPANY,

216 Mercantile Place,

Between Fifth and Sixth Streets.

Los Angeles, July 24, 1911.

Stoddard Incorporating Trust Co.,

Phoenix, Arizona.

Gentlemen:

We would like to reduce our capital from \$1,000,000, to \$100,000. We only have \$50,000 paid in. What are the necessary steps to take and what will it cost?

Very truly yours,

PANAMA DEVELOPMENT COMPANY,

By LYMAN.

[Endorsed]: U. S. Exhibit V.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of this letter upon the same grounds urged in the introduction of Exhibit II, to wit, that it is incompetent by reason of its method of production. And the defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

V.

That the Court erred in overruling the objections of the defendant to the introduction of Govern-

ment's Exhibit VI, which said exhibit reads as follows: [887]

STODDARD INCORPORATING COMPANY,
Isaac T. Stoddard, President,
Phoenix, Arizona.

26th July, 1911.

Celora Martin Stoddard,
Secretary and Treasurer
Panama Development Company,
216 Mercantile Place,
Los Angeles, California.

Gentlemen:—

Your letter of the 24th instant is this morning at hand.

Replying to your inquiry, we have to say that in order to legally change the Articles of Incorporation of an Arizona Company and decrease the capital stock, it will be necessary that a resolution to such effect be passed at a stockholders' meeting by the affirmative vote of a majority of the issued and outstanding capital stock of the corporation. A certificate of such amendment, duly signed by the President and attested by the Secretary of the company, should then be forwarded to us for filing. We are enclosing herewith a blank form of amendment for your use.

The average cost of an amendment is \$35, which includes the several filings, recording, legal publication and one certified copy of the amendment.

We would be pleased to attend to the holding of your meeting, after the same has been properly called, on receipt of proxies and such other data as

is mentioned in the enclosed meeting-letter. You will note that your charge for holding meetings here by proxy is very reasonable.

Of course you understand that the notice for the meetings to authorize the amendment of your Articles of Incorporation should state the purpose for which the meeting is to be held.

Assuring you that your instructions will be carried out in detail and that your meeting and amendment will receive prompt and careful attention when entrusted to us, we remain,

Yours very respectfully,

CELORA M. STODDARD,

Secretary. [888]

Dict. S/L.

[Endorsed]: U. S. Exhibit 6.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of this letter upon the same grounds urged in the introduction of exhibit II, to wit, that it is incompetent by reason of its method of production. And the defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

VI.

That the Court erred in overruling the objections of the defendant to the introduction of a letter dated at Panama the 26th day of July, 1911, addressed to Senor E. A. Lynn, Los Angeles, California, "My Dear Senor," and signed Sandi-ago de la Guardia, being Government's exhibit 37, and in denying motion to strike out the same, which said ex-

hibit reads as follows:

E. A. Lynn—

My Dear Sir: Upon my return from the United States, your official communication was received in which you advised me that I have been appointed a member of the *Advisor*. Board of the Panama Development Co.

It was my first intention to accept this appointment and loan my services for the benefit of my country and help my son Hernan with my advice, but I have advices that you, before you received my acceptance to your offer, published and scattered broadcast in the United States a prospectus in which you state I was a member of this Advisory Board and also that you added *my* after my name my official title with the government and after the name of my son Hernan the title of my office.

Aside from this this prospectus contains exaggerated statements and promises when you haven't even acquired any lands in Panama nor have you incorporated or registered the Co. in this country.

I do not appreciate the method in which you have used my [889] name and official title as it is not serious nor legitimate nor profitable to inspire confidence—I therefore advise you that I will not accept this appointment which you offer and I want you to erase my name and title from your prospectus which you went so far as to use without my authority and the insult given me by publishing this in the United States and which we know by rumor in Panama, which has surely not reached my sons office, which should have been natural.

My friend Mr. Quelquejeu, who is one of the most honorable men in Panama is in Europe but I am sure he will follow my action when he knows of it. For the interest in the enterprise which Mr. Luman indicated and in which figures one of my sons. I will say to you that bad reports and rumors have commenced to be circulated about said Company, coming from American Citizens who have read the prospectus, that you are not proceeding with seriousness and that your enterprise is a true calamity or downfall.

(Signed) SANTIAGO de GUARDIA.

[Endorsed]: U. S. Exhibit 37.

—said objections to said introduction being taken as follows, to wit: Defendant objects on the ground that it is incompetent, irrelevant and immaterial, and no foundation laid, and moves that the same be stricken out; the letter appears on its face to have been addressed to one E. A. Lynn. It is not shown to ever have come to the notice of the defendant in this case. As to him it would be hearsay, and upon the further ground that if this letter was obtained from the Panama Development Company in Los Angeles, California, as we contend and think we are able to show at this time, taken from there without any process of law, at any time about four days subsequent to the arrest of this defendant, it violates the 5th amendment with reference to a person being compelled [890] to give evidence against himself, the contention begin here that this corporation and this man (defendant) are one and the same thing. Second: That if this letter was obtained as we contend,

by virtue of an unauthorized search and seizure of the papers of the corporation, to wit, the Panama Development Company, it is in violation of the rule, or in violation of that constitutional provision that no man can be obliged to furnish evidence against himself. And defendant's exceptions to each and all of the rulings on said objections and motions were truly and regularly taken and allowed.

VII.

That the Court erred in overruling the objections of the defendant to the testimony of John Redpath, and particularly erred in overruling the objection of the defendant to the following questions and answers:

“Q. Now referring back for a moment, to this question of the Security Savings Bank, I show you this letter dated Los Angeles, May 27th, 1911, on Panama Development paper, signed Panama Development Company by John Redpath, and ask you whether or not you signed that letter? Did you sign that letter? A. Yes, sir.

Q. At whose direction?”

—said objections to said introduction being taken as follows, to wit: objected to as irrelevant, incompetent and immaterial, and not within the issues. I want to add to that objection that it is hearsay as to this defendant. And defendant's exceptions to each and all of the rulings were duly and regularly taken and allowed.

VIII.

That the Court erred in overruling the objection of the defendant to the introduction of Government's

Exhibit 70, which was read in evidence, and is as follows: [891]

(Letterhead of Panama Development Company.)

Los Angeles, May 27, 1911.

Security Savings Bank,
Fifth and Spring Streets,
Los Angeles, California.

Gentlemen:

Herewith please find Statement of our Resources and Liabilities at the close of business, May 26th, 1911.

RESOURCES. (Red)

Mortgages and Loans.....	\$ 5,000.00
Cash in Banks.....	8,310.00
Investments	30,000.00
Bills of Exchange and cash ad- vanced	10,000.00
Furniture and Fixtures.....	1,163.00
	<hr/>
	54,473.00

LIABILITIES. (Red)

Capital Stock issued.....	\$50,000.00
Bills not yet due	4,473.00
	<hr/>
	54,473.00

Yours very truly,
PANAMA DEVELOPMENT CO.
By J. M. REDPATH,
Vice-President.

[Endorsed]: U. S. Exhibit 70.

—said objections to said introduction being taken as follows, to wit: We object to it as irrelevant, im-

material and incompetent. And defendant's exceptions to each and all of the rulings were duly and regularly taken and allowed.

IX.

That the Court erred in overruling the objections of the defendant to the introduction of Government's Exhibit 71, being the stock book of the Panama Development Company, and 8 [892] certificates of stock issued to the following persons:

Hernan de la Guardia.....	10 shares
John Redpath	10 shares
L. R. Smith.....	10 shares
I. N. McDonald.....	10 shares
E. A. Lynn.....	10 shares
Ferdinand Pottinger	3000 shares
John Redpath	1000 shares
L. R. Smith.....	1000 shares

Certificate No. 1 of said stock book reading as follows:

Incorporated Under The Laws of Arizona.

Number 1.

Shares 10.

PANAMA DEVELOPMENT COMPANY.

Registered in the Republic of Panama.

Capital stock, \$1,000,000.00

THIS CERTIFIES THAT HERNAN DE LA GUARDIA is the owner of Ten Shares of the Capital Stock of

PANAMA DEVELOPMENT COMPANY
TRANSFERABLE ONLY ON THE BOOKS OF
THIS Corporation in person or by Attorney upon
surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed.

This 16th day of May, A. D. 1911.

JOHN REDPATH,

Vice-president.

L. R. SMITH,

Secretary.

SHARES TEN EACH.

(Seal)

(On reverse side:)

CERTIFICATE FOR SHARES of the CAPITAL STOCK of the PANAMA DEVELOPMENT COMPANY issued to — date —.

FOR VALUE RECEIVED, — hereby sell, assign and transfer [893] unto — shares of the Capital Stock represented by the within certificate, and do hereby irrevocably constitute and appoint — Attorney to transfer the said Stock on the books of the within named corporation with full power of substitution in the premises.

Dated — 19—.

In presence of

NOTICE, The signature of this Assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

—said objections to said introduction being taken as follows: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the

ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings were duly and regularly taken and allowed.

X.

That the Court erred in overruling the objections of the defendant to the introduction in evidence of United States Exhibit 73, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company)

Los Angeles, May 27, 1911.

Messrs. R. G. Dun & Company,

916 International Bank Building,

Los Angeles, California.

Gentlemen:—

Herewith please find statement of our Resources and Liabilities at the close of business, May 26th, 1911. [894]

(Red) RECOURSES.

Mortgage and Loans.....	\$ 5,000.00
Cash in Banks.....	8,310.00
Investments	30,000.00
Bills of Exchange and cash ad-	
vanced	10,000.00
Furniture and Fixtures	1,163.00

54,473.00

(Red) LIABILITIES.

Capital Stock issued 50,000.00

Bills not yet due 4,473.00

54,473.00

Yours very truly,

PANAMA DEVELOPMENT CO.

By J. M. REDPATH,

Vice-President.

[Endorsed]: U. S. Exhibit 73.

—said objections to said introduction being taken as follows: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the Ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings were duly and regularly taken and allowed.

XI.

That the Court erred in overruling the objections of the defendant to the introduction in evidence of United States Exhibit 74, and to the reading of the same, which said exhibit reads as follows: [895]

Los Angeles, May 16, 1911.

Meeting of the Board of Directors named in the Articles of Incorporation of the Panama Development Company, April 29th, 1911, which held its first meeting in the City of Los Angeles, in the State of California. Eleven o'clock, A. M. on the 16th day of May, 1911.

Present, Mess. E. A. Lynn and W. H. Barry, being majority of the said Board. Notice of the meeting having been read, waiver signed by M. La Rue, was presented and filed.

On motion of E. A. Lynn seconded by W. H. Barry, the following resolution was duly adopted:

RESOLVED, that I. T. Stoddard and Celora Martin Stoddard, both of Phoenix, are hereby appointed agents of this Company for the acceptance of service of legal process in Arizona, and that notice of such appointment be filed in conformity with the laws of said Territory, the said agents to receive a total annual compensation of ten dollars, payment of which is hereby authorized and directed.

On motion duly made and seconded, Hernan de la Guardia was elected Director of the Panama Development Company, in place of M. La Rue, resigned.

On motion duly made and seconded, I. M. McDonald was elected Director of said Company.

On motion duly made and seconded, John Redpath was elected Director of said Company, to take the place of W. H. Barry, resigned.

On motion duly made and seconded, the Park Bank of Los Angeles, was appointed depository of the funds of said Company, and John Redpath authorized to open an account with same, and check on same, checks to be countersigned by E. A. Lynn.

On motion duly made and seconded, L. R. Smith was elected Director of said Company.

On motion duly made and seconded, the National Bank of [896] California, was also appointed depository of the funds of said Company, and John

Redpath, authorized to open an account with same, and check on same, checks to be countersigned by L. R. Smith.

On motion duly made and seconded, Hernan de la Guardia was authorized to open a bank account in Panama, in the name of the Company, check from same, and enter into contracts on its behalf, not to incur an indebtedness, however, to exceed \$5,000 (Five Thousand Dollars) Gold, and to do all things that may be necessary to transact the Company's business.

On motion duly made and seconded, Sr. Hernan de la Guardia, Sr. Santiago de la Guardia and Sr. C. Quelquejeu were appointed an advisory board to pass on the plans of the Company, and aid in securing advantageous contracts in the Republic of Panama.

On motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, the Panama Development Company, a corporation, is desirous of acquiring 50,000 acres of agricultural and timber lands, in the Republic of Panama, Now therefore, be it

RESOLVED, That said Corporation purchase from John Grant Lyman, 50,000 acres of such agricultural and timber lands at the agreed price of \$2.50 per acre, such lands to be conveyed to the said corporation in such quantities, and within the afore-said quantity of 50,000 acres, as the said Corporation may desire, and as the said President and Secretary of such Corporation may demand of the said Lyman for delivery; which lands as to quality and avail-

ibility for the purposes of this corporation shall be satisfactory to the said President and Secretary or vice-president and secretary of said corporation. The said 50,000 acres purchased hereby from the said Lyman to be received and paid for within one year from June 1st, 1911, the said purchase price of \$2.50 [897] per acre for all lands to be conveyed as aforesaid to said corporation by said Lyman to be paid for to said Lyman as follows: \$1.25 per acre at the time of purchase of said lands and \$1.25 within four years from date of said first payment of \$1.25; and the President and Secretary of this corporation are hereby authorized to carry out this resolution under such further conditions as may be necessary and proper to effect the purposes of this resolution, and to execute such agreements relating thereto, as may be necessary, as to legally carry out this resolution.

On motion duly made and seconded, the following resolution was adopted;

RESOLVED, that the Panama Development Company, a Corporation, dispose of 10,000 shares of its capital stock or any part thereof in the open market to anyone willing to purchase the same at \$10. per share and the President and Secretary of said Corporation are authorized to carry this resolution into effect, and to make, execute and deliver certificates of stock to purchasers for stock that they

may buy under this resolution.

ADOPTED.

By JOHN REDPATH,
Vice-President.

By E. A. LYNN,
Secretary.

Los Angeles, Aug. 8, 1911.

Special meeting of stockholders of the Panama Development Company, held at the office of the Company in Los Angeles, California, on the eighth day of August, 1911, after due notice of the time, place and purpose of the meeting, by the affirmative vote of a majority of the issued and outstanding stock of the company, Article #3 of the Articles of Incorporation of the said Panama Development Company was duly amended to read as follows:
[898]

ARTICLE #3:

The amount of the authorized Capital Stock of the corporation is \$100,000, divided into 10,000 shares of the par value of \$10.00 each, which shall be paid in, at such time as the Board of Directors may designate, in cash, real or personal property, services, lease, option to purchase, or any other valuable right or thing for the uses and purposes of the corporation, and all shares of capital stock, when issued in exchange therefor, shall thereupon and thereby become and be full-paid the same as though paid for in cash at par, and shall be non-assessable forever, and the judgment of the Directors as to the value of any property, right or thing acquired in exchange for Capital Stock shall be conclusive.

IN WITNESS WHEREOF, the Vice-President of said Company has hereunto set his hand, attested by the secretary of the Corporation, this 9th day of August, 1911.

J. M. REDPATH,
Vice-President.

E. A. LYNN,
Asst. Secretary.

Los Angeles, California, August 8th, 1911.

Meeting of the Board of Directors of the Panama Development Company, held at the offices of the Company, 216 Mercantile Place, Los Angeles, California, at twelve o'clock noon, on the 8th day of August 1911.

On motion duly made and seconded by vote of all [899] Directors Present, the following resolution was unanimously adopted:

RESOLVED: That the Panama Development Company, a corporation, do sell to John Grant Lyman for the sum of Ten Dollars and for past services by him rendered for said corporation, the following described land:

"All that Real Property situate in Riverside, County of Riverside, State of California, described as follows: All of that portion of Blocks Seven (7) and Eight (8) and of Lots One (1) and Two (2) in Block Six (6) of D. C. TWOGOOD'S Orange Grove Tract as shown upon a map of said tract of record in the office of the County Recorder of the County of San Bernardino in Book Seven (7) of Map at Page 42 thereof, that is bounded and described as follows, to wit:

Commencing for a place of beginning at a point where the southerly line of Prospect street (sometimes called Prospect Avenue) intersects the easterly line of Olivewood Avenue; running thence easterly on and along the south lines of Prospect Street 326 feet, to a point distant 106.20 feet easterly from the point where the easterly line of Mulberry Street produced, would intersect the said southerly line of said Prospect Street; running thence southerly, at right angles to said southerly line of said Prospect Street, 219.3 feet, to the lands heretofore sold and conveyed to J. C. CHAMBERS: running thence at a right angle westerly 237.4 feet more or less to the easterly line of said Olivewood Avenue: and running thence northerly, along the easterly line of said Olivewood Avenue, 236.5 feet, more or less, to the place of beginning: and being the same property described in Deed from ADALINE TWO-GOOD and D. C. TWOGOOD, her husband, to FRANCES B. HALDEMAN, recorded in Book 163 of Deeds at Page 135 thereof, in the office of the County Recorder of Riverside County, subject to a mortgage made September 7th, 1909, to HUGH A. BAIN [900] for Seven Thousand (\$7,000.00) Dollars at seven per cent (7%) interest, and due three (3) years after date, recorded September 22nd, 1909, Book 85, Page 141."

And the President and Secretary of said Corporation are hereby authorized to execute and deliver on behalf of said corporation, a deed and conveyance for said land to said John Grant Lyman, in the

usual form in use in California, sufficient to convey title to said Land on receipt of the said sum of ten dollars.

ADOPTED:

JOHN REDPATH,
Vice-President.

E. A. LYNN,
Asst. Secretary.

Los Angeles, August 15, 1911.

Meeting of the Board of Directors of the Panama Development Company, held at the offices of the Company, 216 Mercantile Place, Los Angeles, California, at twelve o'clock noon, on the 15th day of August, 1911.

Present: Mess. E. A. Lynn, I. N. McDonald, John Redpath and L. R. Smith.

On motion duly made and seconded, by vote of all Directors present, the following resolution was unanimously adopted:

RESOLVED, That the Panama Development Company, a corporation, do mortgage for the sum of \$1100.00 the following property:

TO WIT: Lot 285, Edendale Track, Los Angeles County.

And the President and Secretary of the said Corporation are hereby authorized to execute and deliver on behalf of said Corporation, a mortgage covering said land in the usual form in use in California, on receipt of the said sum of \$1100.00.

Given under our hand and seal this fifteenth day of August, nineteen hundred and eleven.

ADOPTED:

PANAMA DEVELOPMENT COMPANY,

By JOHN REDPATH,

Vice-President.

By E. A. LYNN,

Asst. Secretary.

Los Angeles, August 16th, 1911.

Meeting of the Board of Directors of the Panama Development Company, held at the offices of the Company, 216 Mercantile Place, Los Angeles, California, at twelve o'clock noon, on the 16th day of August, 1911.

On motion, and by vote of all Directors present, the following resolution was unanimously adopted:

WHEREAS, the Panama Development Company, a corporation, has received and had advanced to it by John Grant Lyman from time to time various sums of money aggregating in all the sum of \$23,000, and of all said money has been received by said Corporation and has by its officers and directors been expended for the benefit and for the business purposes of said corporation, and the said sum of \$23,000, is now due and owing to the said John Grant Lyman from said Corporation, now be it therefore:

RESOLVED: That said corporation do make, execute and deliver its on demand promissory note to said John Grant Lyman for the said sum of \$23,000, with interest thereon at the rate of 7% per annum, which said note shall be in words and figures following:

Los Angeles, California, [902] August 16, 1911.

On demand we promise to pay to the order of John Grant Lyman Twenty-three *throu*sand ——— Dollars at 216 Mercantile Place, Los Angeles, California.

Value Received with interest at 7%.

No. 1 Due.

PANAMA DEVELOPMENT COMPANY,

JOHN REDPATH,

Vice-President.

E. A. LYNN,

Asst. Secretary.

And the President and Secretary of said corporation are hereby authorized and directed on behalf of said corporation to make, execute and deliver said promissory note to said John Grant Lyman.

ADOPTED:

E. A. LYNN,

Asst. Secretary.

Los Angeles, California, August 21, 1911.

Meeting of the Board of Directors of the Panama Development Company, held at the offices of the Company, 216 Mercantile Place, Los Angeles, California, at twelve o'clock noon, on the first day of August, 1911.

Present, Mess. E. A. Lynn, I. M. McDonald, John Redpath and L. R. Smith.

On motion duly made and seconded, by vote of all [903] directors present, the following resolution was unanimously adopted:

RESOLVED: That L. R. Smith, Director and Secretary of the Company, is hereby authorized to open a bank account in the name of the Company,

enter into contracts on its behalf and to incur indebtedness not, however, exceeding Twenty-five Thousand Dollars (\$25,000) Gold, and to do all things that may be necessary to successfully transact the Company's business in Panama.

Given under the Company's seal this 21st day of August, nineteen hundred and eleven.

ADOPTED:

PANAMA DEVELOPMENT COMPANY,
By JOHN REDPATH,
Vice-President.

(Letterhead of Panama Development Company.)

Los Angeles, Aug. 21, 1911.

Meeting of the Board of Directors of the Panama Development Company, held at the offices of the Company, 216 Mercantile Place, Los Angeles, California, at twelve o'clock noon, on the 21st day of August, 1911.

Present, Messrs. E. A. Lynn, I. M. McDonald, John Redpath and L. R. Smith.

On motion duly made and seconded, by vote of all directors present, the following resolution was unanimously adopted:

RESOLVED: That L. R. Smith, Director and Secretary of the Company, is hereby authorized to open a bank account in the name of the Company, enter into contracts on its behalf and to incur indebtedness not, however, exceeding twenty-five thousand Dollars (\$25,000) Gold, and to do all things that may be necessary to successfully transact the Company's business in Panama. [904]

Given under the Company's seal this 21st day of August, nineteen hundred and eleven.

ADOPTED:

PANAMA DEVELOPMENT COMPANY,

By JOHN REDPATH,

Vice-President.

(Seal of Panama Development Co).

[Endorsed]: U. S. Exhibit 74.

—said objections to said introduction being taken as follows: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the Ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings were duly and regularly taken and allowed.

XII.

That the Court erred in overruling the objections of the defendant to the introduction in evidence of United States Exhibit 75, and to the reading of the same, which said exhibit reads as follows:

(Letterhead of Panama Development Company.)

Los Angeles, Aug. 16, 1911.

\$23,000.00

On demand we promise to pay to the order of JOHN GRANT LYMAN, Twenty-three Thousand Dollars, at 216 Mercantile Place, Los Angeles, Cali-

fornia, Value received with interest at 7%.

No. 1 Due.

PANAMA DEVELOPMENT COMPANY.

By JOHN REDPATH,
Vice-President.

By E. A. LYNN,
Secretary. [905]

[Endorsed]: U. S. Exhibit 75.

—said objections to said introduction being taken as follows: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the constitution of the United States, and on the ruling in U. S. vs. Boyd. And defendant's exception to each and all of the rulings were duly and regularly taken and allowed.

XIII.

That the Court erred in overruling the objections of the defendant to the instruction in evidence of United States Exhibit 76, and to the reading of the same, which said exhibit reads as follows:

(Letterhead of Panama Development Company.)

Los Angeles, June 3d, 1911.

Manager,

Los Angeles Stock Exchange,

Los Angeles, California,

Dear Sir:—

Referring to your favor of the 2d inst. would say the nature of our business is acting as agents for the sale of Panama Government lands, and the developing of the same on behalf of prospective settlers.

Later on we expect to be interested in the promotion of several companies, which will engage in raising sugar cane; also a Company to handle tropical products, on the lines of the United Fruit Company, for which there is a wide and lucrative field in Panama.

The enclosed literature is all we have issued thus far, and explains very fully what we are doing.

As to the men connected with the company: Hernan de la Guardia is generally recognized as the leading agricultural expert in Panama, having been sent by his government to the United States [906] to make a special study of agricultural conditions here, with particular reference to products that could be successfully raised in Panama.

Santiago de la Guardia is the present Attorney General of Panama, and previous to this was the Secretary of State. He is one of the best known men of the Republic, and the *Guardua* family is recognized as one of the leading families in Panama, having been identified with the best in that country for years past.

Sr. C. Quelquejeu is head of the firm of C. Quelquejeu & Company, merchants in the City of Panama, and one of the oldest established firms there. Mr. Quelquejeu is undoubtedly the most widely known business men of the Republic.

It is these three gentlemen that practically constitute the directing board of the Company, and all operations are carried on under their advice.

Mr. John Redpath, Vice-President, was formerly connected with the British Bank of North America,

and as personal reference refers you to W. H. Andrews, Cashier of the German-American Savings Bank.

I. M. McDonald, Treasurer, was until recently engaged in the private work of Senator Wm. A. Clark, who has an office at #20 Exchange Place, New York City. Mrs. McDonald is a lady who represents a gentleman with a large financial interest in this Company.

L. R. Smith, Secretary, was formerly Manager of the Sonora Mercantile Company, Sonora, Mexico, and as personal reference refers to Mr. Fred Gale of Purcell, Gray & Gale, and as bankers reference, Mr. W. W. Lawton, Cashier of the First National Bank of Douglas, Arizona.

E. A. Lynn, Assistant Secretary, is the son of Dr. T. M. Lynn of this city, and for personal reference refers to H. M. Hurd, State Senator, and R. G. Simons, President of the Standard Book Company.

[907]

Regarding the copy of the balance sheet supplied you, will take up the items in detail—the one of Mortgage and Loans of \$5,000, refers to a loan of \$5,000 to the Basin-Wyoming Oil Company, in which one of the Directors of this Company is interested.

To secure the payment of this loan, a mortgage was given covering 320 acres of oil-bearing lands in the Basin of Wyoming, the land, alone, being conservatively estimated as worth \$100.00 an acre. With this loan was given an option for one year on 50,000 fully paid shares of \$1.00 each, at ten cents per share.

The second item speaks for itself.

The third item, under Investments, refers to a \$15,000 advance to the PANAMA SUGAR ESTATES LIMITED, which Company has authorized capital of £500,000, divided into shares of \$5.00 or £1 each, which Company was organized to take over and develop 50,000 shares of land near Agua Dulce, Province of Cocolé, Panama, and plant the same to sugar cane.

This company has received 30,000 fully paid £1 shares in return for this advance of \$15,000, and the Company is now selling its shares in England at four shillings each. A special settlement in these shares will be obtained on the London Stock Exchange. Later it is our intention to make a public offering of a portion of this Company's treasury stock here, and if the results are satisfactory, application will be made in due course to list the same on the Los Angeles Stock Exchange.

This company has also made an investment of a like amount in the Tropical Products Company Limited, on the same terms. This latter concern is to devote a large acreage to bananas and cocoanuts, and there is every reason to believe both companies will prove marked successes, as they are in the hands of thoroughly capable men, who have made a success in similar lines. [908]

Regarding the next item, Bills of Exchange and Cash advanced; that refers to advances made our agents in Panama, and later will be represented by purchases of lands and property now in the way of consummation.

So far as the present operations of the Company are concerned, we do not require a great amount of capital, as from all the Government lands we sell we derive a profit of \$2.50 per acre, or 100%, (This is confidential) and all our sales are practically on a cash basis.

Believing this covers all the points raised in your letter, we are,

Your faithfully,

PANAMA DEVELOPMENT COMPANY.

By JOHN REDPATH.

[Endorsed]: U. S. Exhibit 76.

XIV.

The Court erred in overruling the objection of the defendant to the introduction of evidence attempting to show the defendant's connection with the Tropical Products Company, which testimony is in part as follows:

“Q. Any other Company?

A. There was another name but I can't recall it.

Q. Tropical Products Company? A. Yes, sir.

Q. And you see your name there as vice-president of the company? A. Yes, sir.

Q. Did you ever attend a meeting of that company? A. No, sir.

Q. Did you ever sign a check as an officer of that company?”

—said objections to said introduction being taken as follows:

Mr. SCHENCK.—Objected to as immaterial and not within the issues [909] in this case.

The COURT.—What is the ground of the objec-

tion? Is it merely formal? The witness testified that the defendant told him he was organizing these companies as subsidiary companies to the Panama Development Company.

Mr. SCHENCK.—Suppose he told him he was going to organize a hundred different companies?

The COURT.—It would all tend to show what his purpose was.

Mr. SCHENCK.—Yes, that would be true if it had been alleged but it don't say anything in the indictment.

The COURT.—You don't always have to allege every matter of evidence in an indictment or you would have a volume of hundreds of pages.

Mr. SCHENCK.—We have a 38-page indictment. My contention is that they have attempted to set forth substantially and have alleged what they claim to be substantially the scheme that he is alleged to have devised. Now, then, we come here to meet the allegation that we did intend to devise such a scheme.

The COURT.—This relates to that scheme whether this was a subsidiary corporation to the Panama Development Company.

Mr. SCHENCK.—But in describing the scheme which we intended to devise, they did not say a word except about the Panama Development Company.

The COURT.—The objection is overruled.

And defendant's exception to the ruling on said objection was duly and regularly taken and allowed.

XV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U.

S. Exhibit 4, and to the reading of the same, which said exhibit reads as follows, to wit: [910]

(Letterhead of Panama Development Company.)

Los Angeles, May 26th, 1911.

Stoddard Incorporating Trust Company,

Phoenix, Arizona.

Gentlemen:

We should like to have you incorporate a company entitled—

PANAMA SUGAR ESTATES LIMITED

with an

Authorized capital of \$2,500,000 (£500,000)

divided into 500,000 shares, of the par

value \$5.00, or (£1) each.

DIRECTORS—

John Redpath

L. R. Smith

I. N. McDonald

which Company is to develop lands in Panama suitable for the cultivation of tropical products, and provide in the Charter it can act as planter, and engage in all forms of agriculture, as well as the building of a sugar mill, making the Charter as liberal as possible.

Likewise incorporate a company entitled—

TROPICAL PRODUCTS COMPANY LIMITED

with an

Authorized capital of \$2,500,000 (£500,000)
divided into 500,000 shares, of the par value
of \$5.00, or (£1) each.

DIRECTORS—

JOHN REDPATH

L. R. SMITH

I. N. McDONALD

also to engage in planting of tropical products.

[911]

Stoddard Incorporating Trust Company.....#2.

Provide that the annual meeting of each Company
shall be the first Tuesday in May of each year.

Enclosed please find check for \$100.00, covering
your fees.

We think, in view of the fact that we shall give you
a very considerable amount of work, that you should
supply us, without extra charge, with additional cer-
tified copies of the Articles of Incorporation, as we
require three of each.

Very truly yours,

PANAMA DEVELOPMENT COMPANY,

By L. R. SMITH.

P. S.—Please note that we want the word “Lim-
ited” to appear in the title of both companies, with
the capital expressed in dollars and pounds, Ster-
ling, and for the purposes of exchange, £1 shall be
considered equal to \$5.00.

[Endorsed]: U. S. Exhibit 4.

—said objections to said introduction being taken
as follows, to wit:

We object to the introduction of the same as in-
competent, irrelevant and immaterial, on the ground

that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the Ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XVI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of *U. S. Exhibit 7* and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company.)
[912]

Los Angeles, August 9, 1911.

Stoddard Incorporating Co.,

Phoenix,

Arizona.

Gentlemen:—

We are handing you herewith an Amendment to our Articles of Corporation which explain themselves. We believe the document to be in proper form,—all of the stockholders being present at the special meeting mentioned.

We are enclosing check for \$35.00, and would ask that you use all haste possible in getting the matter disposed of for us. We are more than anxious to have the return of these papers as they are wanted for registration in Panama, and the writer is waiting their return to leave for that point, and for this reason, we are very anxious to have the matter rushed. Thanking you in advance for your efforts in dispos-

ing of the matter in all possible haste, we beg to be

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By L. R. SMITH.

S./C.

Enc.

[Endorsed]: U. S. Exhibit 7.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.
[913]

XVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 51, and to the reading of the same, which said exhibit reads as follows, to wit:

PANAMA SUGAR ESTATES LIMITED.

Authorized Capital \$2,500,000 (£500,000).

Divided into 500,000 Shares of the Par Value of
\$5.00 (or £1) each.

Full paid and non-assessable.

Officers and Directors.

Hernan de la Guardia, President.

C. Quelquejeu, vice-president.

John Redpath, second vice-president.

L. R. Smith, Treasurer.

Victor Maura, General Manager.

C. J. Wood, Assistant Manager.

I. N. McDonald, Secretary.

This company has been formed to acquire and develop 50,000 acres of Government lands in Panama, suitable for the cultivation of tropical products, and it is proposed to at once put in 20,000 acres of sugar cane, which when planted on a large scale, will yield a profit approximately of \$75.00 an acre, or \$1,500.00 per annum.

It is the intention to gradually increase the acreage devoted to sugar cane until 50,000 acres are so planted, which should yield a profit, based upon the present cost of land and labor, of \$3,750,000 per annum.

It is the belief of the directors that no place on earth presents such a combination of favorable conditions for tropical agriculture as exists today in Panama, for with the opening [914] of the canal, all the markets of the world will be within easy reach.

How profitable tropical agriculture really is, can best be shown by the history of the United Fruit Company, which now has over 60,000 acres under cultivation, with one plantation alone, at Banos, Cuba, with 24,000 acres in sugar cane, which is yielding a profit of more than \$1,100,000 annually, under conditions far less favorable than those existing with this company.

The United Fruit Company's total operations showed last year an annual net profit exceeding

\$4,500,000. This company was started twenty years ago, and it is stated that the original investors who put in \$1,000 each, have withdrawn over \$1,000,000 in dividends. There is no mine, oil well, or industrial proposition in the whole civilized world that can show a greater percentage of profit than is presented in the history of this Fruit Company.

That this is not an isolated case, except in the magnitude of its profits, is shown by the record of the Chaparra Sugar Estates of Cuba, of which Congressman Hawley, of Texas, is at the head. This company now has over 40,000 acres in cane, and is owned by the Cuban American Sugar Company, capitalized at \$18,000,000, on which it is paying a dividend of 7 per cent, or \$1,260,000 annually, besides setting aside a large surplus from which improvements and extensions are being made.

It *is* must be borne in mind that conditions for growing cane are not nearly so favorable in Cuba as in Panama, and that the production per acre is just about one-half, being twenty-three tons in Cuba to forty tons in Panama. It has only been a total lack of transit facilities, with a lack of initiative on the part of the Panamanians, which has prevented Panama from being in the very forefront of sugar-producing countries. [915]

Now that the Panama Government has permitted Americans to acquire lands on the same terms as granted natives, the completion of the canal will bring this district into close touch with the sugar markets of the world, and it is destined to become one of the most profitable industries.

It is not too much to say that no company is better qualified to secure desirable lands, or to obtain better results than the Panama Sugar Estates.

The President, Hernan de la Guardia, is one of the best posted scientific agriculturists in Panama, having been sent by his Government to study agricultural conditions in the United States, where he took special courses in two agricultural colleges. He is the son of the present Attorney General of Panama.

Mr. Quelquejeu is head of the firm of C. Quelquejeu & Company, one of the oldest and most widely known mercantile firms in the Republic of Panama. He was born in the Province of Chiriqui, and is thoroughly familiar with business conditions prevailing in the country in which he has achieved an enviable success.

John Redpath, a director, was formerly connected with the Royal Bank of Scotland, and later with the Bank of British North America. He is now vice-president of the Panama Development Company.

Victor Maura is a sugar expert from Cuba, who is familiar with every detail of its cultivation and extraction.

Mr. Wood was until recently manager of the State Agricultural Station at Yuma, Arizona, and is an expert agriculturalist, having resigned his former position to become identified with this company.

L. R. Smith, a director, is Secretary and General Manager of the Panama Development Company.

It will thus be seen that not only is the Board of Directors [916] composed of men of sound busi-

ness training, but they are particularly adapted to bringing the business of this Company to a successful issue. It is a fair assumption, considering the unusually favorable conditions under which this Company will act, that it will eventually achieve a success comparable only to that of the United Fruit Company.

One hundred thousand shares, of the par value of \$5.00 each, are now offered for subscription at \$1.00 per share. It is the confident belief of the directors that before the end of the current year these shares will sell for \$5.00 each.

The first crop of sugar cane will be harvested fifteen months after being planted, and when the Company is in full operation, a handsome dividend, greater than the amount now asked for shares, should be returned each year, and, based upon the profits now being made by similar companies, 100 per cent per annum on present cost is ultimately not too much to expect.

As a simultaneous offer of these shares is now being made in London, no guarantee can be given that the full number applied for can be allotted, but should no allotment be made, the amount paid will be returned in full, or should any less number than those applied for be allotted, then the proportionate amount of the deposit will be returned.

Application will be made in due course for a special settlement on the London Stock Exchange; likewise for a quotation on the Los Angeles Stock Exchange.

PANAMA SUGAR ESTATES LIMITED.
TO THE DIRECTORS OF THE PANAMA SUGAR
ESTATES LIMITED,
216 Mercantile Place,
Los Angeles, California.

Gentlemen:—

Enclosed please find check for \$—— covering my subscription at \$1.00 per share for —— full paid shares, of the par value of \$5.00 or £1 each of the Panama Sugar [917] Estates Limited.

You are hereby authorized to register me on the books of the company as a share holder of the same.

Name _____.

Address _____.

[Endorsed]: U. S. Exhibit 51.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XVIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 77, and to the reading of the same, which said exhibits reads as follows, to wit:

"GRANT DEED

(Code Deed)

C. C. Sec. 1092.

Elizabeth Leach widow — of Los Angeles, of the County of Los Angeles, State of California,

FOR AND IN CONSIDERATION OF THE SUM OF Two Thousand Five Hundred (2500) Dollars, the receipt whereof is hereby acknowledged, does hereby Grant to the Panama Development Company ALL THAT REAL PROPERTY SITUATE IN Los Angeles County of Los Angeles, State of California, described as follows: Lot 285 Edendale Tract as per Book 2, page 81-82 of Maps Records of Los Angeles County.

WITNESS My hand this Tenth day of August, nineteen hundred and [918] eleven.

ELIZABETH LEACH. (Seal)

_____ (Seal)

_____ (Seal)

Signed and Delivered in the Presence of

State of California,

County of Los Angeles,—ss.

On this 10th day of August, in the year nineteen hundred and eleven, before me, R. J. McClelland, a Notary Public in and for said County, residing therein, duly commissioned and sworn, personally appeared Elizabeth Leach known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

WITNESS my hand and official seal.

[Seal]

R. J. McCLELLAND,

Notary Public in and for said County of Los Angeles,
State of California.

(Title)

No. —.

GRANT DEED

(Code Deed)

to

Dated ———, 191—.

Order No. 157 [919]

When recorded, please mail this instrument to
_____.

(Rubber Stamp) Compared.

Document — Miller.

Book — Wise.

Recorded at request of Grantee Aug 10, 1911 at
16 min. past 1 P. M. in Book 4648 Page 210 of Deeds
Los Angeles County Records.

C. L. LOGAN,

County Recorder.

By R. L. Hazen,

Deputy.

Fee. \$80.

[Endorsed]: U. S. Exhibit 77.

—said objections to said instruction being taken as

follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XIX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 78, and to the reading of the same, which said exhibit reads as follows, to wit:

PANAMA DEVELOPMENT COMPANY

Land Agreement.

THIS AGREEMENT made and entered into this Tenth day of August, 1911, by and between the PANAMA DEVELOPMENT COMPANY, a CORPORATION [920] hereafter known as the party of the first part, and Elizabeth Leach of Los Angeles California U. S. A. party of the second part.

WITNESSETH:

The said party of the second part, being desirous of purchasing One Thousand acres of Government land in the Province of Cocle, Republic of Panama, and whereas the party of the first part, through its authorized agents, is able to locate and purchase said land as an agent for the party of the second part.

NOW, THEREFORE, the said party of the second part does hereby authorize, appoint, designate and

name the PANAMA DEVELOPMENT COMPANY as her true and lawful agent and attorney to purchase in the name of the party of the second part One Thousand acres of agricultural land suitable for the cultivation of Sugar Cane and ——— acres of timber land in the Province of Cocle (Bk. 49) Agua Dulce, Colony, Republic of Panama.

IT IS FURTHER AGREED that for and in consideration of the party of the first part through its authorized agents locating and purchasing said lands, the party of the second part hereby agrees to pay to the party of the first part the sum of \$2.50 per acre for each and every acre so located and purchased.

AND IT IS FURTHER AGREED by and between the parties hereinbefore mentioned, that a further sum of \$2.50 for each and every acre so located and purchased shall be paid to the party of the first part within a period of four years, it being optional upon the party of the second part as to when she shall complete Title during the period named. It being mutually understood and agreed that the party of the second part shall not be called upon to pay any interest or taxes under this agreement.

IN WITNESS WHEREOF the parties to these presents have hereunto set their hands and seals the

day and year first above written. [921]

(Seal) PANAMA DEVELOPMENT COMPANY.

By JOHN REDPATH, Vice-pres. (Seal)

ELIZABETH LEACH. (Seal)

Signed, sealed and delivered in the presence of
G. L. MAYNARD. (Seal)

(Second page)

PANAMA DEVELOPMENT COMPANY.

Received on the *witnin* contract the sum of
Twenty Five Hundred Dollars (\$2500.00)

PANAMA DEVELOPMENT COMPANY.

By JOHN REDPATH,
Vice-Pres.

POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS that
I do hereby constitute and appoint SENOR DE LA
GUARDIA my true and lawful attorney with full
power of substitution for me and in my name, place
and stead to locate and purchase Government land
in the Republic of Panama, and to attend to all mat-
ters pertaining to same with all the powers I would
possess if personally present.

IN WITNESS WHEREOF I have hereunto set
my hands and seal this 10th day of August, 1911.

ELIZABETH LEACH. (Seal)

Signed, sealed and delivered in the presence of
G. L. MAYNARD. (Seal)

Said objections to said introduction being taken as
follows, to wit: We object to the introduction of the
same as incompetent, irrelevant and immaterial on
the ground that the method of its procurement and

seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the [922] ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 79, and to the reading of the same, which said exhibit reads as follows, to wit:

AGREEMENT made this 9th day of August, nineteen hundred and eleven, between the PANAMA DEVELOPMENT COMPANY, a corporation, party of the first part, and Elizabeth Leach, of Los Angeles, party of the second part.

WITNESSETH:

WHEREAS: The party of the second part is the owner of certain Sugar lands in Panama, located in the Province of Cocle, Panama, and whereas the party of the second part desires the same cleared, cultivated and planted to Sugar Cane.

NOW, THEREFORE, it is mutually agreed by and between the parties hereto, that the party of the first part in consideration of receiving one-half of the crop, will clear or cause to be cleared, One Thousand acres of sugar lands, planting the same with sugar cane and harvesting and selling the crop, and take one-half of net return in full payment of same.

IT IS MUTUALLY UNDERSTOOD AND AGREED that the party of the first part will render

the party of the second part true and accurate accounts of expenses and disbursements, together with receipts from sugar cane, and that these accounts will be certified to by a competent auditor, approved by both parties.

FURTHERMORE, that the party of the second part may at all time have access to the accounts covering said development work. [823]

This agreement to continue for four years from date and to expire August 9, nineteen hundred and fifteen, unless previously dissolved *my* mutual consent.

Witness our hands and seals this 9th day of August, nineteen hundred and eleven. Development to begin within nine months from this date.

PANAMA DEVELOPMENT COMPANY.

By JOHN REDPATH.

ELIZABETH. _____.

Witness,

G. L. MAYNARD.

[Endorsed]: U. S. Exhibit No. 79.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXI.

That the Court erred in overruling the objections

of the defendant to the introduction in evidence of U. S. Exhibit 80, and to the reading of the same, which said exhibit reads as follows, to wit:

THIS MORTGAGE, Made the Fifteenth day of August, 1911, By PANAMA DEVELOPMENT COMPANY, a corporation organized under the laws of the State of ~~California~~ Arizona, and having its principal place of business at the City of Los Angeles, in the State of California, Mortgagor. To SADIE WALDEN, Mortgagee. [924]

WITNESSETH:

That the Mortgagor hereby mortgages to the Mortgagee all that certain real property situate in the City of Los Angeles, County of Los Angeles, State of California, and particularly described as follows:

Lot Two Hundred Eighty-five (285) of the Edendale Tract, as per map recorded in Book 2, pages 81 and 82 of Maps, recorded in the office of the County Recorder of Los Angeles County.

\$1100.00.

Los Angeles, California, August 15th, 1911.

THREE YEARS after date, for value received, Panama Development Company, a corporation, promise to pay to SADIE WALDEN, or order, at 404 West Jefferson Street, Los Angeles, California, the sum of ELEVEN HUNDRED AND NO/100 DOLLARS, with interest from date until paid, at the rate of Eight (8%) per cent per annum, payable quarterly should the interest not be so paid, it shall become part of the principal and thereafter bear like interest as the principal. Should default be made in the payment of any installment of interest when

due, then the whole sum of principal and interest shall become immediately due and payable at the option of the holder of this note. Principal and interest payable in gold coin of the United States. This note is secured by a mortgage.

The maker of this note reserves the privilege of paying the same at any time after date by paying the principal, accrued interest, and 90 days' additional interest as a bonus.

PANAMA DEVELOPMENT COMPANY,

By JOHN REDPATH,

Vice-President.

By L. R. SMITH,

Secretary.

—including all buildings and improvements thereon or that may be erected thereon; together with all and singular the tenements, hereditaments and appurtenances, water and water rights, pipes, flumes and ditches thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, [925] rents, issues and profits thereof; for the purpose of securing

First: The performance of the promises and obligations of this mortgage and payment of the indebtedness evidenced by one promissory note (and any renewals thereof) in words and figures as follows: \$1100.00.

Los Angeles, California, August 15th, 1911.

THREE YEARS AFTER date for value received, Panama Development Company, a corporation, promise to pay to SADIE WALDEN, or order, at 404 West Jefferson Street, Los Angeles, California,

the sum of ELEVEN HUNDRED AND NO/100 Dollars, with interest from date until paid, at the rate of Eight (8%) per cent per annum, payable Quarterly. Should the interest not be so paid, it shall become part of the principal and thereafter bear like interest as the principal. Should default be made in the payment of any installment of interest when due, then the whole sum of principal and interest shall become immediately due and payable at the option of the holder of this note. Principal and interest payable in gold coin of the United States. This note is secured by a mortgage.

The maker of this note reserves the privilege of paying the same at any time after date by paying the principal, accrued interest and 90 days' additional interest as a bonus.

PANAMA DEVELOPMENT COMPANY,
[Seal] By JOHN REDPATH,
Vice-President.
By L. R. SMITH,
Secretary.

Second: The payment of attorney's fees in a reasonable sum to be [926] fixed by the Court in any action brought to foreclose this mortgage, whether suit progress to judgment or not; also the payment of all costs and expenses of such suit and also such sums as said mortgagee may pay for searching the title to the mortgaged property subsequent to the date of the record of this mortgage or for surveying said property, all of which said sums, including said attorney's fees, are hereby declared a lien upon said property and are secured hereby.

Third: The payment of all sums expended or advanced by the mortgagee for taxes, assessments, encumbrances, adverse claims, fire insurance, inspection, repair, cultivation, irrigation, protection or for any other purpose provided for by the terms of this mortgage.

The mortgagor agrees to pay, as soon as due, all taxes, assessments and encumbrances, which may be, or appear to be, liens upon said property or any part thereof, and the mortgagor agrees to keep said buildings insured against fire, to the amount required by and in such insurance companies, as may be satisfactory to the mortgagee and to assign the policies therefor to the mortgagee; and to promptly pay and settle (or cause to be removed by suit or otherwise) all adverse claims against said property.

In case said taxes, assessments, or encumbrances so agreed to be paid by the mortgagor be not so paid, or said buildings so insured and said policies so assigned, or said adverse claims so paid, settled or removed, then the mortgagee, being hereby made the sole judge of the legality thereof, may without notice to the mortgagor, pay such taxes, assessments or encumbrances, obtain such policies of insurance in her own name as mortgagee and pay or settle any or all such adverse claims or cause the same to be removed by suit or otherwise. [927]

The mortgagor agrees to keep said property in good condition and repair and to permit no waste thereof, and should said property, or any part thereof, require any inspection, repair, cultivation, irrigation or protection, other than that provided by

the mortgagor, then the mortgagee, being hereby made the sole judge of the necessity therefor, and without notice to the mortgagor, may enter, or cause entry to be made, upon said property, and inspect, repair, cultivate, irrigate or protect said property as she may deem necessary. All sums expended by the mortgagee in doing any of the things above authorized are secured hereby and shall be paid to the mortgagee by the mortgagor in said gold coin, on demand, together with interest from the date of payment, at the same rate of interest as is provided to be paid in the note hereinbefore set out.

In the event of a loss under said policies of fire insurance, the amount collected thereon shall be credited first to the interest due, if any, upon said indebtedness, and the remainder, if any, upon the principal sum, and interest shall thereupon cease on the amount so credited on said principal sum.

The mortgagor promises to pay said note according to the terms and conditions thereof; and in case of default in the payment of the same, or of any installment of interest thereon when due, or if default be made in the payment of any other of the moneys herein agreed to be paid, or in the performance of any of the covenants or agreements herein contained on the part of the mortgagor, the whole sum of money then secured by this mortgage shall become immediately due and payable at the option of the holder of said note, and this mortgage may thereupon, or at any time during such default, be foreclosed, and the filing of the complaint in foreclosure shall be conclusive notice of the exercise of

such option by the mortgagee. [928]

It is also agreed that should this mortgage be foreclosed, then in the decree of foreclosure entered in such action, the property described therein may be ordered sold *en masse*—or as one lot or parcel, at the option of the mortgagee.

AND ALSO, that the mortgagee may at any time, without notice, release any portion of said mortgaged premises from the lien of this mortgage without affecting the personal or the lien of this mortgage upon the remainder of the mortgaged premises for the full amount of said indebtedness then remaining unpaid.

The mortgagor hereby mortgages the property hereinbefore described, to secure the performance of every promise and agreement herein contained, direct or conditional, and to secure the repayment to the mortgagee of all sums paid, laid out or expended by the said mortgagee under the terms of this mortgage, and also to secure the attorney's fees and costs provided for by this mortgage in case of a foreclosure thereof.

Every covenant, stipulation and agreement herein contained shall bind and inure to the benefit of said parties, their heirs, executors, administrators, successors or assigns.

The above and foregoing note and mortgage are made, executed and delivered in pursuance of a resolution duly passed by the Board of Directors of said mortgagor, at a legal meeting thereof duly convened and held on the fifteenth day of August, 1911.

IN WITNESS WHEREOF the said mortgagor

has hereunto caused its corporate name and seal to be affixed by its Vice-President and Secretary thereunto duly authorized the day and year in the indenture first above written.

PANAMA DEVELOPMENT COMPANY,

[Seal]

By JOHN REDPATH,

Vice-President.

By L. R. SMITH,

Secretary. [929]

State of California,

County of Los Angeles,—ss.

On this sixteenth day of August, in the year of our Lord, One Thousand Nine Hundred Eleven, before me, Jessie M. Fosdick, a Notary Public in and for said County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared John Redpath, known to me to be the vice-president, and L. R. Smith, known to me to be the secretary of Panama Development Company, the corporation that executed the within and foregoing instrument, known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] JESSIE M. FOSDICK,

Notary Public in and for the County of Los Angeles, State of California.

(Backing) MORTGAGE By a Corporation (with Tax Agreement) PANAMA DEVELOPMENT

COMPANY, a corporation, to SADIE WALDEN. Dated August 15th, 1911. TITLE INSURANCE AND TRUST COMPANY, Cor. Franklin and New High Sts., Los Angeles, California. 259. Order No. 320627. When recorded please mail this instrument to Mtgee c/o E. E. Walden, 404 W. Jefferson St., Los Angeles, Calif. COMPARED. Document Gibbings Book Moore Recorded at request of Mtgee. Aug. 25, 1911. At 9 A. M. in Book 2809, Page 217, of Mortgages, Los Angeles County Records. C. L. LOGAN, County Recorder. By E. E. Sallady. Fee \$2.30. Satisfaction entered on margin of the within recorded instrument. C. L. Logan.

[Endorsed]: U. S. Exhibit No. 80. [930]

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And the defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 81, and to the reading of the same, which said exhibit reads as follows, to wit:

PANAMA DEVELOPMENT COMPANY.

No. 23.

LAND AGREEMENT.

THIS AGREEMENT made and entered into this

Two Thousand day of June, 1911, by and between the PANAMA DEVELOPMENT COMPANY, a CORPORATION hereafter known as the party of the first part, and Frances B. Haldeman of Riverside, California, U. S. A. party of the second part.

WITNESSETH:

The said party of the second part, being desirous of purchasing two thousand acres of government land in the Province of Cocle Chiriqui Veraquas, Republic of Panama, and whereas the party of the first part, through its authorized agents, is able to locate and purchase said land as an agent for the party of the second part.

NOW THEREFORE, the said party of the second part does hereby authorize, appoint, designate and name the PANAMA DEVELOPMENT COMPANY as my true and lawful agent and attorney [931] to purchase in the name of the party of the second part Two Thousand acres of agricultural land suitable for the cultivation of Sugar Coffee Bananas Cocoanuts and Four Hundred acres of timber land in the Provinces of Cocle Chiriqui Veraguas, Republic of Panama.

IT IS FURTHER AGREED that for and in consideration of the party of the first part through its authorized agents locating and purchasing said lands, the party of the second part hereby agrees to pay to the party of the first part the sum of \$2.50 per acre for each and every acre so located and purchased.

AND IT IS FURTHER AGREED by and between the parties hereinbefore mentioned, that a further sum of \$2.50 for each and every acre so located

and purchased shall be paid to the party of the first part within a period of four years, it being optional upon the party of the second party as to when she shall complete title during the period named. It being mutually understood and agreed that the party of the second part shall not be called upon to pay any interest or taxes under this agreement.

IN WITNESS WHEREOF the parties to these presents have hereunto set their hands and seals the day and year first above written.

PANAMA DEVELOPMENT COMPANY,

JOHN REDPATH, (Seal)

Vice-Pres.

FRANCES B. HALDEMAN. (Seal)

Signed, sealed and delivered in the presence of
L. R. SMITH. [Seal] No. 23

POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS that I do hereby constitute and appoint SENOR HERNAN DE LA GUARDIA my true and lawful attorney with full power of substitution for me and in my name, place and stead to locate and purchase Government [932] land in the Republic of Panama, and to attend to all matters pertaining to same with all the powers I would possess if personally present.

IN WITNESS WHEREOF I have hereunto set my hands and seal this Twenty-fourth day of July, 1911.

FRANCES B. HALDEMAN. (Seal)

Signed, sealed and delivered in the presence of
L. R. SMITH. (Seal)

[Endorsed]: U. S. Exhibit 81.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. 82, and to the reading of the same, which said exhibit reads as follows:

AGREEMENT made this twenty-fourth day of June, 1911, between the PANAMA DEVELOPMENT COMPANY, a corporation, party of the first part, and FRANCES B. HALDEMAN, of Riverside, California, party of the second part.

WITNESSETH:

WHEREAS, the party of the second part is the owner of certain sugar lands in Panama, located in the Province of Cocle, Panama, and whereas the party of the second part desires the same cleared, cultivated and planted to sugar cane, NOW THEREFORE, it is mutually agreed by and between the parties hereto, that the party of the first part in consideration of receiving one-half the crop, will clear or cause to be cleared, one thousand (1000) acres of sugar land, planting the same with sugar cane and harvesting [933] and selling the crop, and take

on half of gross returns in full payment for same.

IT IS MUTUALLY UNDERSTOOD AND AGREED that the party of the first part will render the party of the second part true and accurate accounts of expenses and disbursements, together with receipts from sugar cane, and that these accounts will be certified to by a competent auditor, approved by both parties.

FURTHERMORE, that the party of the second part may at all time have access to the accounts covering said development work.

This agreement to continue for three years and five months and six days from date and to expire November 1st, 1914, unless previously dissolved by mutual consent.

Witness our hands and seals this twenty-fourth day of June, 1911.

PANAMA DEVELOPMENT CO. (L. S.)

JOHN REDPATH,

Vice-president.

FRANCES B. HALDEMAN. (L. S.)

[Endorsed]: U. S. Exhibit 82.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 83, and to the reading of the same, which said exhibit reads as follows: [934]

GRANT DEED

(Code Deed)

C. C. Sec. 1092.

FRANCES B. HALDEMAN AND ROBERT J. HALDEMAN, her husband, of Riverside of the County of Riverside, State of California, FOR AND IN CONSIDERATION OF THE SUM OF Seventeen Thousand (\$17,000.00) Dollars the receipt whereof is hereby acknowledged, do hereby grant to the PANAMA DEVELOPMENT COMPANY, of Los Angeles, California.

ALL THAT REAL PROPERTY SITUATE IN Riverside, County of Riverside, State of California, described as follows: All of that portion, of Blocks Seven (7) and Eight (8) and of Lots One (1) and Two (2) in Block Six (6) of D. C. TWOGOOD'S Orange Grove Tract as shown upon a map of said Tract of record in the office of the County Recorder of the County of San Bernardino in Book Seven (7) of Map at Page 42 thereof, that is bounded and described as follows, to wit:

Commencing for a place of beginning at a point where the Southerly line of Prospect Street (sometimes called Prospect Avenue) intersects the easterly line of Olivewood Avenue; running thence easterly on *an* along the south line of Prospect Street 326 feet, to a point distant 106.20 feet easterly from

the point where the easterly line of Mulberry Street produced, would intersect the said southerly line of said Prospect Street; running thence southerly, at right angles to said southerly line of said Prospect Street, 219.3 feet, to the lands heretofore sold and conveyed to J. C. CHAMBERS: running thence at a right angle westerly 237.4 feet more or less to the easterly line of said Olivewood Avenue; and running thence northerly, along the easterly line of said Olivewood Avenue, 236.5 feet, more or less, to the place of beginning; and being the same property described in Deed from ADALINE TWOGOOD and D. C. TWOGOOD, her husband to [935] FRANCES B. HALDEMAN, recorded in Book 163 of Deeds at Page 135 thereof, in the office of the County Recorder of Riverside County, subject to a Mortgage made September 7th, 1909, to HUGH A. BAIN for Seven Thousand (\$7,000.00) Dollars at seven per cent (7%) interest and due three (3) years after date, recorded September 22nd, 1909, Book 85, Page 141.

WITNESS their hands this twenty-ninth day of June, nineteen hundred and eleven.

FRANCES B. HALDEMAN. (Seal)

ROBERT J. HALDEMAN. (Seal)

Signed, sealed and delivered in the presence of

M. E. CAREY.

JOHN REDPATH.

State of California,

County of Los Angeles,—ss.

On this 29th day of June in the year nineteen hundred and eleven, before me M. E. Carey a Notary

Public in and for said County, residing therein, duly commissioned and sworn, personally appeared Frances B. Haldeman and Robert J. Haldeman, her husband, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS my hand and official seal

[Seal]

M. E. CAREY,

Notary Public in and for said County, State of California.

My Commission expires March 8, 1913.

[Endorsed]: No. 4. GRANT DEED (Code Deed). Haldeman to Panama D. Co., 216 Mercantile Bldg. Dated L. A. 19—. RECEIVED FOR RECORD Jun. 30, 1911, at 19 Min. past 9 o'clock A. M. at request of Grantee. Copied in Book No. 331 of Deeds, page 64 et seq., Records of Riverside County, California. J. S. Logan. Recorded by Deputy Recorder. Fees \$1.50.

[Endorsed]: U. S. Exhibit 83. [936]

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXV.

The Court erred in overruling the objections of

the defendant to the introduction in evidence of U. S. Exhibit 85, and to the reading of the same, which said exhibit reads as follows, to wit:

AGREEMENT made this 23rd day of June, 1911, between the PANAMA DEVELOPMENT COMPANY, a corporation, party of the first part, and E. D. RYAN, party of the second part:

NOW, THEREFORE, WITNESSETH: It is hereby mutually agreed that the party of the first part shall employ the party of the second part as General Manager of the said company in all the operations of the said company have or may have in the Republic of Panama.

The party of the second part agrees to explore land in the Republic of Panama and make report to the said party of the first part, the culture advise, and any other information he may obtain.

The party of the first part agrees to pay all traveling expenses of the party of the second part and a salary of \$100. U. S. C. per month, while traveling on behalf of said party of the first part.

The party of the first part also agrees to pay the party of the second part an additional amount of \$150. U. S. C. per month when cultivation is started.
[937]

The party of the first part also agrees to hold in trust 5% of the stock of the company, the dividends of same to be paid to the party of the second part, until they shall equal the sum of \$250. U. S. C. per month; after which the party of the first part shall be called upon to make payments of dividends on 2% of the company's stock to the party of the second

part; these dividends do not include any profit made from sale of raw land.

The party of the second part agrees to carry out the instructions of the party of the first part to the best of his ability and to give the party of the first part the advantage of any and all information that he may acquire and to give the party of the first part the benefit of all options or property that he may secure at the net cost to him.

This agreement to begin on the first day of July, 1911, and to continue until the first day of July, 1914, unless previously canceled by mutual consent.

PANAMA DEVELOPMENT COMPANY.

By JOHN REDPATH, (L. S.)

Vice-pres.

E. D. RYAN. (L. S.).

Witness:

G. L. MAYNARD.

[Endorsed]: U. S. Exhibit 85.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.
[938]

XXVI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of *U. S.*

Exhibit 87, and to the reading of the same, which said exhibit reads as follows, to wit:

(Blank of the Postal Telegraph Company)

San Francisco Aug. 30-11.

Panama Development Co.

216 Mercantile Place, Los Angeles, Cal.

Forward all mail to General Delivery / San Francisco.

JNO. G. LYMAN.

1042 AM.

[Endorsed]: U. S. Exhibit No. 87.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 88, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead Hotel St. Francis)

September 1, 1911.

Dear Mr. Redpath:—

When is the Howard note due? Call them up and tell them you would like to pay them \$250. on account and give them a new note for \$500 to run for 30 days for the balance. [939]

Don't worry about the *Segogram*, or the other advertising business for that matter, as they have all had a lot of money and can well afford to wait on you, if necessary. You should be able to sell that Edendale house at a price. Have you given it to the other broker? Advertise the Atlanta Oil stock for sale, providing it is not already sold. There is no use waiting on those people longer. All Honolulu reports are very favorable, and we surely shall be able to win out there. Now, don't worry, you have got nothing but trifles there to annoy you, and there is no reason for being disturbed. Will get busy here as soon as you send me up the information asked for yesterday.

Sincerely yours,

L.

[Endorsed]: U. S. Exhibit 88.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXVIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 89, and to the reading of the same, which said exhibit reads as follows:

(Letterhead of Hotel St. Francis)

San Francisco, Sept. 4, 1911.

Dear Mr. Redpath:

There is something wrong with the way you mail [940] letters there. Yours written Sept. 2nd at 1:00 P. M. was only received this morning. I note what you have to say regarding the small bank balance and that collectors are around with bills for about \$1,000. Thank, heaven, my dear Mr. Redpath, they are not judgments. If all I had to consider was a few unpaid bills I should consider myself in clover, but there are matters much more serious than this. First off we must take care of Smith; what his real difficulties are I cannot imagine, but I know Guardia can help him if he really desires, and he must be forced to do so. Thus far I have not been able to raise a solitary cent here, and it does not look as though I could count on any money before the 14th inst. I am doing everything I possibly can short of going out and knocking somebody down and taking it away from them.

Now, as to the bills, it does not seem to me that you have anything more serious to immediately meet there than the Howard bill, which surely can be extended with a small payment; or at the worst assign over to him the Allandale property, and as to the rest of the bills, simply tell the collectors we cannot pay them; at the very worst they can do no more than sue, which they are not likely to do for a week or two, and if we get a little time, we will be all right. Those that are very insistent give them thirty day notes. Meanwhile get busy with everybody possible

and try and raise as much cash as possible. I don't see that I could be any possible help there other than to stave off these collectors, which you certainly ought to be able to do. I am trying hard to raise some money here and I am thoroughly convinced from the talk I had with a Hawaiian Sugar planter last night that it will be possible to raise there all we require and put us in clover, but I can't be in two or three places at once, and it seems to me the most important place for me is where money can be raised rather than trying to run that office; no one is more interested in its future, or has a greater stake, than I have as every dollar I possess is in the business, and am doing everything I possibly [941] can to save it and will continue to do so until the very last drop of the gun; but it certainly is discouraging to feel that I have got to take care of the office and meet collectors, which after all is not a difficult thing to do, and one which you *should* be able to take care of; to be sure, it is disagreeable, but there are a great many things that are worse, but if you can put up to our people that we are willing and anxious to pay and will pay, it ought not to be very difficult to put them off for a while until money can be raised to take care of them. I am attempting to do this without any regard to what success you may meet with, but I cannot do it on an instant's notice. Go to the party who bought the Montebello property and say to them that if they will give you \$1500 this week you will turn the property over to them. This is a discount

of \$500 and ought to be a sufficient inducement to get them to deal.

Yours truly,

[Endorsed]: U. S. Exhibit 89.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXIX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 90, and to the reading of the same, which said exhibit reads as follows, to wit: [942]

Will be arrested if we cannot settle with Amiel. immediately. Guardia without funds unable to render assistance.

(Code message on Western Union Cable Message Blank.)

[Endorsed]: U. S. Exhibit 90.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objec-

tions were duly and regularly taken and allowed.

XXX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 91, and to the reading of the same, which said exhibit reads as follows, to wit:

(Western Union Cable Message Blank)

Panama Sept. 4—11—

Panamano,

Los Angeles, (California).

What do you propose to do? Cannot hold out much longer. Why don't you answer? Will be arrested, unless you can settle. Amiel serious.

[Endorsed]: U. S. Exhibit 91.

—said objections to said instruction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of [943] the rulings on said objections were duly and regularly taken and allowed.

XXXI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 92, and to the reading of the same, which said exhibit reads as follows, to wit:

(Western Union Blank.)

Los Angeles, Cal. 4.

J. G. Lyman,

Genl Dely.,

San Francisco, Cal.

Come back immediately very serious Smith has cabled twice wire office.

R.

[Endorsed]: U. S. Exhibit 92.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 93 and to the reading of the same, which said exhibit reads as follows, to wit:

(Western Union Day Letter Blank.)

San Francisco, Sept. 5, 1911.

John Redpath,

216 Mercantile Place, Los Angeles, Cal. [944]

Am doing everything that lies within my power to raise the necessary money and have so cabled Smith. Meanwhile do not relax your own efforts to raise the necessary funds. Try on the Montabello property as suggested in yesterday's letter. Am mailing

something that may help raise necessary funds.

L.

Mr. REGAN.—On the bottom in the handwriting of the witness is:

243p.

Answer.

Wire rec. demand made by contract holders for One Thousand Dollars within 24 hours, nothing in sight here. Come at once.

[Endorsed]: U. S. Exhibit No. 93.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 94, and to the reading of the same, which said exhibit reads as follows, to wit:

(Cable Message Blank, Western Union.)

Sept. 5-11.

Panamano,

Los Angeles, (Cal.)

Amiel will refer the matter to consul. Will suspend operations California, unless settled in full. Immediate action will be taken. Why don't you answer?

[Endorsed]: U. S. Exhibit 94.

—said objections to said introduction being taken as follows, to [945] wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 95, and to the reading of the same, which said exhibit reads as follows, to wit:

(Cable message blank Western Union Tel. Co.)

Panama 9 Sept. 5, 11.

Panamano,

Los Angeles, (Calif)

Immediate settlement necessary will start proceedings.

AMIEL.

712 A. M.

[Endorsed]: U. S. Exhibit 95.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's ex-

ceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 96, and to the reading of the same, which said exhibit reads as [946] follows, to wit:

(Letterhead of Hotel St. Francis.)

San Francisco, Sept. 5, 1911.

Dear Mr. Redpath:

Outside of the fact that Amile is pressing Smith the latters cable is distinctly encouraging as he says everything else is satisfactory there, and Ryan is in *Cherokee*, so that by taking care of *Ameile* evidently everything will be O. K. To bring this about I am doing all I possibly can but it does not look as though I was going to get any money vefore the 14th. I would advise something like the enclosed being sent to every promising prospect with one of the old application forms changed to \$1.50 per acre for the first payment, and a like amount for the second payment. To anyone who is considering an investment this will certainly appeal; and meanwhile get all the boys out to hustle up the live prospects they have in tow, and get them rounded up on this special proposition. The main thing is to get the money and get it quickly. I would return in a minute if returning would do any good, but I have no chance of getting any money there, and there is *some* chance here. It seems to me what is required now is a money getter rather than anything else, and my being in the office there to jolly up collectors would be of very little real value com-

pared to what I may accomplish here. However, I will do what you all think is best. Address in future % Hotel St. Francis)

Sept. 5, 1911.

strictly confidential.

Dear Sir:—

We are obliged to raise a large sum of money before the 10th inst., and in order to do this will offer you a very special inducement to take up the lands we have reserved for you, and if you will send in your application by return mail we will [947] accept at the rate of \$3.00 per acre, payable \$1.50 down and \$1.50 in four years. These are the identical lands we are charging \$6.00 for and which will soon be \$7.00, and we are making this concession solely because of our immediate needs.

If you are in doubts as to whether you prefer agricultural or timber lands, send in your application for the number of acres desired together with your remittance at the rate of \$1.50 per acre, and you may have either that you desire. Even if you never cultivate the land, on a contract of this sort you should be able to realize a very handsome profit over its resale. Please regard this as strictly confidential, and solely for your benefit, which owing to our necessities you can profit by.

[Endorsed]: U. S. Exhibit 96.

—said objections to said introduction being taken as follows, to wit:

We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was

in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXVI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 97, and to the reading of the same, which said exhibit reads as follows, to wit: [948]

(Letterhead of Hotel St. Francis)

San Francisco Sept. 6, 1911.

Dear Mr. Redpath:

I cannot tell you how sorry I am that I cannot send the funds desired, but if it was to save your life and that of everybody else it would still be impossible for me to do so. You do not seem to realize my position. Let me make it clear to you: I put every dollar I possess in the business, and it is only by going outside and mortgaging or selling other property that I can now get any more money. This I am attempting to do, and am promised money next week. Meanwhile I haven't enough to pay my hotel bill, and *cannot* leave. Bring home to those that are demanding money that if they force the Company into the hands of a receiver no one will get anything. And you might say, too, that I have a demand claim of over \$20,000 which in the event of a receivership will be promptly filed with all the others, and this would simply mean that everybody would lose all they have in; the receiver's charges would eat up all the present assets. I have a man here who controls

a lot of money that he can place in Panama lands but he wants to go on the Board and manage the business, and I have just tried to telephone you regarding this, and wanted the charges reversed as they could be paid by the Company, but you refused to do this and I haven't money to pay the call, so am obliged to write. I think the best thing to be done is for you and Linn to come up here, bringing all the contracts and a complete list of all the claims we have outstanding, likewise those against us together with the Montobello contracts and that other real estate, and if there is anything at all to this some money can be raised on same providing we put this man on the Board of Directors. He will step in and manage things and take your [949] place, and this should prove a great relief to you. If you will call me up by telephone here tomorrow at twelve o'clock we can talk it over. My coming down there would do no good as there are only two directors in Los Angeles, and it will require the third—McDonald, who is here, to make a quorum. In the meantime, for your own protection you had better arrange matters in the office so that if a receiver is appointed, or an attachment is served you will be protected. I think, however, to come here and elect this new man and let him have control of the business will be the best thing for all concerned as I believe he can bring enough money in to take care of all the pressing claims, including Smith's, and next week I shall be able to render some assistance, but please bear in mind that at the present moment, it is *utterly and absolutely impossible* for me to raise enough money

even to get out of town. I wish from the bottom of my heart I could do something for you but there is nothing that can be done until next week.

Yours truly,

(Envelope)

San Francisco, Sep. 6, 8 P. M. 1911.

Mr. John Redpath, 216 Mercantile Place, Between
5th and 6th St., Los Angeles, Calif.

[Endorsed]: U. S. Exhibit No. 97.

—said objections to said introduction being taken as follows, to wit:

We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. v. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed. [950]

XXXVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 98, and to the reading of the same, which said exhibit reads as follows, to wit:

(Day letter blank of Western Union)

San Francisco, Cal. Sept. 6, -11.

John Redpath,

216 Mercantile Place,

Los Angeles, Calif.

Cheer up. Have arranged to secure five thousand which will be available on Tuesday. Meanwhile you can arrange to draw on me at St. Francis Hotel a

draft at five days sight for two thousand this ought to help some.

L.

1115 AM.

[Endorsed]: U. S. Exhibit No. 98.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXVIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 99, and to the reading of the same, which said exhibit reads as follows, to wit: [951]

(Western Union Telegram Blank)

Sept 6, 1911.

To J. G. Lyman,

St. Francis Hotel, San Francisco.

Cable received "Confirm resignation Smith taken charge" Guardia letter and wire received draft impossible you must come.

REDPATH.

[Endorsed]: U. S. Exhibit No. 99.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and

seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXIX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of *U. S. Exhibit 100*, and to the reading of the same, which said exhibit reads as follows, to wit:

(Day Letter Blank of Western Union)

Sept. 6, 1911.

Smith Tivoli Panama.

Three cables Panamo,

J. G. Lyman,

St. Francis Hotel,

San Francisco.

Come at once conference imperative demands on contracts increasing second wire.

Smith cables must answer seventeen hundred must be cabled.

[Endorsed]: *U. S. Exhibit 100*.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, [952] irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exception to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 101, and to the reading of the same, which said exhibit reads as follows, to wit:

(Day letter blank of Western Union.)

San Francisco, Cal., Sep. 7th, '11.

Mr. John Redpath,

216 Mercantile Place,

Los Angeles, Cal.

Decosts friend of Merrill's who fairly understands present conditions is willing take your place. He is in position also to *Taise* considerable money if assets are of any value advise you and Lynn to come instantly bringing minutes and contracts note Montebello and ellendale contracts in short everything that has any loan value McDonald here necessary for quorum. If any sort of showing can be made good advances can be obtained and *Lecosto* has some people thoroughly interested who believe in the proposition if property managed but they want him in. To continue as you are now doing means certain failure and total losses for all concerned and unpleasant notoriety for yourself while the change may mean salvation anyway it is the only chance. 927 AM. L.

[Endorsed]: U. S. Exhibit No. 101.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amend-

ments to the Constitution of the United States and on the [953] ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXXI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of *U. S. Exhibit 102*, and to the reading of the same, which said exhibit reads as follows, to wit:

(Western Union Telegraph Blank.)

Los Angeles, Cal., Sept. 7-11.

J. G. Lyman,

St. Francis Hotel, S. C., Cal.

Lynn and I leave to-night. Arrange meeting by wire.

REDPATH.

1:57 PM.

[Endorsed]: *U. S. Exhibit No. 102*.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXXII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of *U. S. Exhibit 103*, and to the reading of the same, which

said exhibit reads as follows, to wit:

(Western Union Telegraph Blank.)

St. San Francisco, Cal., Sep. 7, 1911, 3:09 PM.

John Redpath,

216 Mercantile Place,

Los Angeles. [954]

St. Francis Hotel, 930 in the morning.

L.

[Endorsed]: U. S. Exhibit No. 103.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXXXIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 104, and to the reading of the same, which said exhibit reads as follows, to wit:

(Western Union Cable Blank.)

Sep. 8, 1911. 2 16 PM.

Panamano, Los Angeles (Cal.).

Amiel will not *except* draft must have definite answer immediately. If you can pay and when, can hold. Possibly ten days. If they (you) can make small immediate payment. cannot get away. a watch is being kept. *on* have made a final effort.

must have help. funds are urgently needed. an answer is necessary.

[Endorsed]: U. S. Exhibit No. 104.

—said objections to said introductions being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed. [955]

XXXXIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 105, and to the reading of the same, which said exhibit reads as follows, to wit:

CABLE MESSAGE.

THE WESTERN UNION TELEGRAPH COMPANY.

RECEIVED AT

Ny Als5 Hx 1474

Lyman,

433 Consolidated Realty.

Los Angeles (Cal.).

Must answer.

SMITH.

5:15 PM.

[Endorsed]: U. S. Exhibit 105.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the

same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXXV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 108, and every portion thereof, and to the reading of the same, which said exhibit reads as follows, to wit:

No. 247, Los Angeles, California, June 29, 1911.

Pay to the order of Howard Auto Company \$1,000
One Thousand 00/100 Dollars.

To the National Bank of California, Los Angeles.

JOHN REDPATH,

Vice-president. [956]

L. R. SMITH,

Secretary.

[Endorsed]: Pay to the order of National Bank of California, Los Angeles, Cal., Howard Auto Co.
(Stamped) Cancellation stamp showing payment.

Panama Development Company,
216 Mercantile Place.

No. 199.

Los Angeles, Cal., Aug. 4, 1911.

Pay to the order of Howard Automobile Co.
\$250.00, Two Hundred and Fifty Dollars.

Park Bank of Los Angeles, Los Angeles, California.

By JOHN REDPATH,
Vice-President.

By E. A. LYNN,
Asst. Secretary.

[Endorsed]: Pay to the order of National Bank
of California, Los Angeles, Cal. Howard Auto Co.
(Stamped Paid.)

Panama Development Company,
216 Mercantile Place.

No. 426.

Los Angeles, California, August 12, 1911.

Pay to the order of Howard Automobile Co.,
\$144.90, One Hundred and Forty-Four 90/100 Dol-
lars.

PANAMA DEVELOPMENT COMPANY.
To the National Bank of California, Los Angeles.

J. M. REDPATH,
Vice-President.

L. R. SMITH,
Secretary.

[Endorsed]: Pay to the order of National Bank of
California.

(Stamped Paid.)

Panama Development Company,
216 Mercantile Place.

No. 266.

Los Angeles, California, July 6th, 1911.

Pay to the order of the First National Bank

\$200.00, Two Hundred 00 Dollars.

JOHN REDPATH,

Vice-President.

To the National Bank of California, [957] Los Angeles.

L. R. SMITH,

Secretary.

[Endorsed]: Cr. to Teresa S. Maier.

(Stamped paid and cancelled.)

PANAMA DEVELOPMENT COMPANY,

216 Mercantile Place.

No. 146.

Los Angeles, California, June 10, 1911.

PAY TO THE ORDER OF John G. Lyman

\$1,000, One Thousand/00 Dollars.

To the NATIONAL BANK OF CALIFORNIA,
Los Angeles.

JOHN REDPATH,

Vice-President.

L. R. SMITH,

Secretary.

(Stamped) (Perforated) Paid 6/12/11.

[Endorsed]: John G. Lyman.

(Stamp) Los Angeles Clearing House.

First National Bank

June 12, 1911

5''

United States of America.

1165

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 167.

Los Angeles, California, July 21, 1911.

PAY TO THE ORDER OF CASH \$100.00.

PARK BANK OF LOS ANGELES, Los Angeles,
California.

By JOHN REDPATH,
Vice-President.

By E. A. LYNN,
Asst. Secretary.

(Perforated stamp:) Paid 7/21/11.

[Endorsed]: J. G. Lyman.

(In pencil) "Cashed in office."

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 352.

Los Angeles, California, July 27, 1911.

PAY TO THE ORDER OF John G. Lyman \$500,
Five Hundred Dollars. [958]

To the NATIONAL BANK OF CALIFORNIA,
Los Angeles.

(Canceled paid.)

JOHN REDPATH,
Vice-President.

L. R. SMITH,
Secretary.

[Endorsed]: John G. Lyman.

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 369.

Los Angeles, California, August 1st, 1911.

PAY TO THE ORDER OF John G. Lyman
\$1,000.00.

To the NATIONAL BANK OF CALIFORNIA.

JOHN REDPATH,
Vice-President.

L. R. SMITH,
Secretary.

Los Angeles.

(Cancelled paid.)

[Endorsed]: John G. Lyman.

E. A. Lynn.

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 372.

Los Angeles, California, August 2nd, 1911.

PAY TO THE ORDER OF John G. Lyman
\$100.00, One Hundred/00 Dollars.

TO THE NATIONAL BANK OF CALIFORNIA,
Los Angeles, California.

By JOHN REDPATH,
Vice-President.

By L. R. SMITH,
Secretary.

(Canceled paid.)

[Endorsed]: John G. Lyman.

PANAMA DEVELOPMENT COMPANY,
JOHN REDPATH, V. P.

(In pencil) "Cashed in office." [959]

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 198.

Los Angeles, Cal., Aug. 3, 1911.

Pay to the order of John G. Lyman, \$500.00, Five
Hundred/00 Dollars.

PARK BANK OF LOS ANGELES, Los Angeles,
California.

By JOHN REDPATH,
Vice-President.

By E. A. LYNN,
Asst. Secretary.

(Cancelled paid.)

[Endorsed]: John G. Lyman.

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 227.

Los Angeles, Cal., Aug. 25, 1911.

PAY TO THE ORDER OF J. G. Lyman 4240.74,
Two Hundred and Forty 74/100 Dollars.

PARK BANK OF LOS ANGELES, Los Angeles,
California.

By JOHN REDPATH,
Vice-President.

By E. A. LYNN,
Asst. Secretary.

(Cancelled paid.)

[Endorsed]: J. G. Lyman."

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 462.

Los Angeles, California, Aug. 25, 1911.

Pay to the order of J. G. Lyman, \$227.90, Two
Hundred and Twenty-Seven 90 Dollars.

PANAMA DEVELOPMENT COMPANY,
To the National Bank of California, Los Angeles.

JOHN REDPATH,
Vice-President.
L. R. SMITH,
Secretary.

[Endorsed]: J. G. Lyman.
(Stamped cancelled paid.)

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 462.

Los Angeles, California, Aug. 25, 1911.

Pay to the order of J. G. Lyman \$227.90, Two
Hundred and Twenty-Seven 90 Dollars.

PANAMA DEVELOPMENT COMPANY,
To the National Bank of California, Los Angeles.

JOHN REDPATH,
Vice-President.
L. R. SMITH,
Secretary. [960]

[Endorsed]: J. G. Lyman.
(Stamped) (Cancelled and paid.)

PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place.

No. 238.

Los Angeles, Cal., August 28, 1911.

Pay to the order of J. G. Lyman \$300.00, Three
Hundred Dollars.

Park Bank of Los Angeles, Los Angeles, California.

By JOHN REDPATH,
Vice-President.

By E. A. LYNN,
Asst. Secretary.

[Endorsed]: J. G. Lyman.

(Stamped, Cancelled and paid.)

Panama Development Company,
216 Mercantile Place.

No. 135.

Los Angeles, California, June 8, 1911.

Pay to the order of Ourselves \$1,000.00, One Thousand Dollars.

To the National Bank of California, Los Angeles.

L. R. SMITH,
Secretary.

[Endorsed]: Panama Development Company by
John Redpath, Vice-President.

(Stamped, Cancelled and paid.)

[Endorsed]: 672—Crim. U. S. Exhibit No. 108.
—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amend-

ments to the Constitution of the United States and on the Ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed. [961]

XXXXVI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of Exhibit 118, and to the reading of the same, which said Exhibit reads as follows, to wit:

(Letterhead Panama Development Company.)

Los Angeles, June 14.

Dear Sir:—

The Panama Development Company is about to advertise THE PANAMA SUGAR ESTATES LIMITED, prospectus of which is enclosed herewith.

The shares are fully paid and of the par value of \$5.00 or £1 each, and it is the intention to simultaneously offer the same as \$1. or 4/— each, in Los Angeles, and London, where companies operating in tropical products are held in high esteem. This should result in an international market, with very active dealings in the stock.

Prior to the public offering of the shares, we are goint to give those with whom we have been in communication relative to Panama lands, an opportunity to come in with us on a ground floor basis, and under the same terms as offered the directors of the Company. Pursuant to this, applications received before July 15th will be accepted on a basis of 50¢ a share for each fully paid share of \$5.00, payable

25¢ with the application, and 25¢ from dividends as declared.

Applications under this offer will be limited to 1,000 shares, but any smaller number may be applied for on the same terms, and the form attached below should be used.

No applications will be received under this offer after July 15th.

There is every reason to expect present applicants will profit very handsomely, as they will obtain the shares at one-half [962] the public price, and we trust you will appreciate the courtesy tendered you.

Should you desire any special information, kindly call or write this office at once.

PANAMA DEVELOPMENT COMPANY.

PANAMA DEVELOPMENT COMPANY:

Enclosed please find check for \$——, being at the rate of 25¢ per share for —— full paid and non-assessable shares of the par value of \$5.00, or £1 each, of the PANAMA SUGAR ESTATES LIMITED, it being understood and agreed that I shall not be called upon to make any additional payments other than 25¢ a share from dividends as declared.

Name _____

Address _____

[Endorsed]: U. S. Exhibit No. 118.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, not so much because there is anything there that amounts to anything, but it has nothing to do with

the case so far as I can see. We certainly have enough papers without reading documents and circulars that do not amount to anything. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXXVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 144, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company.)
[963]

Los Angeles, June 19, 1911.

Mr. Paul A. Hauser,
1228 Lime Avenue,
Long Beach, California.

Dear Sir:—

We have written you several times regarding Panama lands, and not having heard from you, believe we have not presented the facts clearly or you would have been very quick to grasp the opportunities presented, and would appreciate very much hearing in what respect the subject fails to meet with your approval.

It is an absolute certainty that there is not a single acre of land that we have offered you that will not soon be worth ten times its present cost, and by the time the Canal is completed^m much of it will be worth from one hundred to two hundred times the price it can be obtained for now.

Recently we arranged for the sale of 10,000 acres

to an American Colony which is to be established at Agua Dulce, one of the best sugar districts in Panama. Agua Dulce is an ideal location from every point of view, as it is directly on the line of the new railroad, has a fine harbor, and is only about 100 miles from the Western Entrance of the Canal.

We are now negotiating with a company for the purchase of a much oarger tract in the same locality, and Agua Dulce is destined to become a large town. There is little doubt but that by the time the Canal is opened much of the land in this vicinity will have greatly enhanced in price, yet for those who can act quickly, we can still obtain a limited amount of the finest land, particularly adapted for the growing of sugar cane and bananas, and adjoining the American colony, on the same terms as paid by them—\$2.50 down and \$2.50 in four years—with [964] no taxes or interest to pay until one year after completion of title.

As the lands are all one price, even though far inland, we have nothing to gain except by serving you to the best possible advantage, and if the selection be left to us and you are dissatisfied, we will return the full amount paid at any time within four years, upon assignment to us of the provisional title.

It is probable that within a year the railroad will be completed to Agua Dulce, but by that time all the Government lands near the town and harbor will have been taken up, and the time to acquire same is now.

#2—

We would advise an immediate visit to this office,

where we can show you just what lands can be acquired, or if you will indicate the number of acres desired, we will send you a soil map showing just what we can secure for you, and the location of same in connection with the railroad and harbor.

We regard these lands as the best real-estate purchase in the whole world today, affording an opportunity, which if once lost, can never again re-occur, and we cannot impress upon you too strongly the advantage of acting immediately.

Very truly yours,

PANAMA DEVELOPMENT COMPANY,

By L. R. SMITH.

[Endorsed]: U. S. Exhibit 144.

—said objections to said introduction being taken as follows, to wit: We object to the same upon the grounds that it is incompetent, irrelevant and immaterial; upon the witness' statement that this is not a transcription from her original notes, but is a transcription or rather is a purported copy of her transcription of notes, it becomes *ipso facto* secondary. And defendant's exceptions to each and all of the rulings on [965] said objections were duly and regularly taken and allowed.

XXXXVIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 145, and to the reading of the same, which said exhibit reads as follows, to wit:

BOOK 1, Page 27.

Mrs. Dr. Steele,

447 S. Hope Street,

Toursine Hotel,

Los Angeles, California.

Dear Madam:—

We are in receipt of advices that a real-estate friend of yours had informed you that the Panama Development Company was the “greatest graft of the century.” We will appreciate it very much *is* you will give us this individual’s name, and we will promise to bring him up with a round turn.

Regarding our Company, let us say that one of the Advisory Board is the present Attorney General of Panama, and the President of the Company is recognized as the leading agricultural expert in Panama, having been sent by his government to this country to make special investigations, and he, in this work, took special courses in two agricultural colleges.

A third member of our Advisory Board is the leading merchant in Panama, a man having been identified with business life there for many years past, while our vice president is an old banker, having formerly been connected with the National Bank of Scotland; and the balance would compare favorable with those mentioned, so there can be no question regarding the company’s *bona fides*.

Further, there can be no question about the advisability of buying Panama Government lands, for they are the richest agricultural lands in the whole world. All they have lacked [966] heretofore

was markets, which, through the opening of the Canal, and building of the new railroad, will soon be available.

We hand you herewith another of *pur prospectii*, and would state that every statement therein made is absolutely correct. Furthermore, if you make a purchase of the same, and are dissatisfied with them, we will return the full amount paid at any time within four years.

We are responsible for \$50,000, paid up in cash capital, and are able and prepared to carry out our contracts. When your alleged friend states it is impossible to carry on cultivation there, he does not know what he is talking *avour*. Contract labor in the way of either coolies or Jamaica negroes, can be obtained in any number desired.

Furthermore, permit us to remind you that it is not necessary for you to make any payments for cultivation, except from the crop itself, if you desire, at that time. Please remember, too, we are not requesting you to buy our lands, as we are only acting as agents, and all lands sold are government lands, and the title will come *direct from the Government to you*. You will thus see that we have nothing to gain except by securing for you the best lands, and if purchased under our offer of a guarantee of refund in the event of your being dissatisfied, you have everything to gain and nothing to *loose*.

Mrs. Dr. Steele—#2.

You must realize that if this country had been thoroughly opened up with transportation facilities, these government lands would have been taken up,

and it will only be a short time before they are all gone. When the opportunity is once past, it is gone forever. Your common sense should tell you that fertile lands at the price asked for these Government lands, is ridiculously small. [967]

We are inclined to believe that your friend is probably anxious to sell you some local real estate, from which he would derive a commission, rather than with any idea of serving your best interests, for, as before stated, there can be no questions about the desirability of Panama Government lands at the present time. They are the greatest purchase in Christendom, and we trust to be able to serve you, for which we promise our very best efforts.

Very truly yours,

PANAMA DEVELOPMENT COMPANY.

By _____.

[Endorsed]: U. S. Exhibit 145.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

XXXIX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 146, and to the reading of the same, which said exhibit reads as follows, to wit:

June 19, 1911.

Mr. O. Hellwig,
c/o Coronado Postoffice,
Coronada Beach, California.

Dear Sir:—

Replying to your favor of June 10th, would say that at David you can find moderate priced hotels, and if you wish your own home you can erect a small house at a very small cost. [968]

The climate of Chiriqui is remarkably fine, and you can grow vegetables of all sorts, and keep chickens, as all the natives do.

The cost of clearing and planting twenty acres of land into cane will be approximately \$2,000, which will be charged up against the first two crops. It is probable that the second year there will be a surplus of at lease \$25.00 per acre, which would go to the owner of the land, as the crop yields net from \$50.00 to \$75.00 an acre. Planting the cane can be done at any time as soon as the land is cleared.

Regarding the best of means of going to Panama, would suggest the Pacific Mail Line, which has an excellent steamer running from San Francisco.

If you are going to have your land put into sugar cane and work done under contract, you would not want a house put on the land, and had better live in David, where you could find comfortable accommodations. You know sugar cane when once planted reproduces itself, therefore it does not require cultivation as other crops would.

If you are going to have the land put into sugar cane, it would be a great mistake to attempt to tear

it up later, with a view of putting in something else, and if you wish a general farm, as part of your letter indicates, then you had better have that in addition to the cane land.

Our maps of Panama are now in the hands of the printer and will shortly be ready, and as soon as they are we will send you a copy. If you desire any further information shall be glad to advise, and thanking you for your favors, we are,

Very truly yours,

PANAMA DEVELOPMENT COMPANY,

By _____ [969]

—2—

(Over)

P. S. If you desire lands near David we should advise you to file application instantly. The choice of lands in this vicinity will soon be gone, and we are making no reservation for anyone. "First come, First served."

[Endorsed]: U. S. Exhibit 146.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

L.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 147, and to the reading of the same, which

said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company)

Los Angeles, July 10, 1911.

Mrs. O. Hellwig,

Coronado, California,

Dear Madam:

Replying to your letter of the 7th inst. will say that your informant evidently is in total ignorance regarding Panama, as the climate on the Canal Zone is not considered good, but it is on the western coast in the province of Chiriqui, where the death rate is about one-half that prevailing in the average city in the United States, and it is in this particular section that the United States Government proposes building its sanitarium for canal employees, all of which, as you will note, [970] is in direct variance from the information you have had from your friends.

It is very true that there are no markets in Panama to speak of at the present time, but you have only to show the smallest amount of foresight to realize that the opening of the Panama canal will change all this, and as ships will be passing through the canal to all points it will have the markets of the world to choose from, and it is this very reason that makes the lands so desirable, for everyone knows they are remarkably fertile, and it is only a lack of markets and transportation facilities that have kept them back, but now these are near at hand.

If you have but a limited amount of money at your command, it would be far better for you to buy at the present time as much land as you can possibly pay for, and then, secure with that, hold it until the

railroad is completed and the canal opened, when you will be able to sell it at a very much higher price even if not cultivated, or, if you prefer to obtain an income from it at once, have the land cultivated on shares, which after the first year would give you a nice return and soon afford you sufficient capital to take care of any improvements contemplated without drawing upon your own resources.

The only railroad in Panama at the present time in operation is one from Colon to Panama, and the one along the western coast and up the Costa Rican border are those which the government are about to build, and for which they have been advertising for bids, which closed June 30th.

Regarding the land selected for you, or in fact all other tracts; we have a complete record in our office, and no land is sold anywhere without first having received our approval. We have selected for you what we consider a very desirable tract, as it is right near tide-water and adjacent to the railroad, and will unquestionably greatly increase in value, [971] and we should by all means advise you to avail yourself of the opportunity of buying them. You have everything to gain by so doing.

——#2——

On and after August 1st, the price will be \$6.00 per acre, but even if you paid \$20.00 for it, it would be well worth the money. If it is inconvenient for you to pay the full amount of \$2.50 per acre down for the number of acres which you desire, you can remit at the rate of \$1.25 per acre and pay the balance in one or two years in installments of equal amounts.

If you accept this offer you will have an opportunity to get your land under cultivation and developed on shares, so that it will yield you a good profit, and meet your future payments at the time they are due, and we think this would be the very best thing for you to do.

Now, if this letter does not cover every point, or you desire any further information, if you will write we will promptly advise to the very best of our ability, as we are here to aid you in every possible way.

Very truly yours,

PANAMA DEVELOPMENT COMPANY,

By L. R. SMITH.

[Endorsed]: U. S. Exhibit 147.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LI.

The Court erred in overruling the objections of the [972] defendant to the introduction in evidence of U. S. Exhibit 86, and to the reading of the same, which said exhibit reads as follows, to wit:

Los Angeles, Calif., August 25, 1911.

Mr. John Redpath,

Los Angeles, Calif.

Dear Sir:—

Mrs. J. M. Chowllwell of 1224 Commonwealth Avenue, Alhambra, California, has a new bungalow at that address on a lot 50 x 150. She will exchange for Panama Government Lands, or at least wants to.

There is a mortgage on the property of \$1,500.00, and I would advise saying to her when she or her husbands calls, that if they will clear the property, you will give them contracts covering 650 acres of Panama Government Lands; this would be a valuation of \$3900.00 for their property, for which they are likely to ask you four thousand.

You might say to them that you are familiar with the property, having been out to Alhambra a good many times, and know the district, which you regard as a very good one, but as Government agents are not allowed to exchange for anything but clear property.

Yours very truly,

L/C

[Endorsed]: U. S. Exhibit 86.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States [973] *States* and on the ruling in U. S. vs. Boyd.

And defendants exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 149, and to the reading of the same, which said exhibit reads as follows, to wit:

Box 51, R. F. D. San Fernando,
23rd Augt. 1911.

Dear Sir:—

I find that I cannot pay the \$12.50 I owe you on the 10 acres I bought from you lately, unless I sell the shares I own in the Investment Co. and also 1 lot I bought from the Arch Beach Heights Co. The number of the lot is 21 Block 60. The office of the Co. is 700-701 Consolidated Realty Bldg. I think it is on Hill Street. Now I'll be very much obliged to you if you will purchase the shares and the lot from me as soon as possible. I want to pay you that \$12.50 and I want to get a suit of clothes.

In order to invest as much as possible in land in Panama I did not get a new suit as I should have so I trust you will help me out by buying the shares and the lot from me.

The lot is worth at least \$30. You will find what lots are selling by phoning to 700-701 Consolidated Realty Bldg. You will find the current price of Capital Shares by phoning to the Los Angeles Investment Co. 335 South Hill St.

Let me know by return as I think I'll go to Los Angeles on Saturday next. I want to get a new

suit so that I look for a better job and *i'll* have more money to invest in Panama lands. By buying the shares and the lot from me, you'll just be bringing grist to your own mill. You can hold [974] this lot till it is worth \$100. I am sorry to have to sell it, but I can't help it.

You see I spent all my ready cash in buying Panama lands from you, so I trust you will help me out now, and I'll be very much obliged to you. Hoping you will let me have a reply by return mail.

I remain,

Yrs. faithfully,

THOS. O. ROURKE.

The Secretary.

[Endorsedt]: U. S. Exhibit 149.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 158, and to the reading of the same, which said exhibit reads as follows, to wit:

Sept. 5, 1911.

Mr. N. R. Bell,
Riverside, Calif.

Dear Sir:—

Your letter of 2nd inst. is a distinct disappointment as I was hopeful we were going to close this sale at once. Now if it cannot be done promptly I will withdraw the property as it is only because I had urgent need of the money that I was willing [975] to sacrifice it at this time, and if I am compelled to raise funds elsewhere I certainly would not think of selling this property at the price offered you. Please get in touch with your prospective buyer at once, and wire me when you expect to be able to close, as on this will depend whether I withdraw it or not.

Address care of the above hotel.

Very truly yours,

[Endorsed]: U. S. Exhibit No. 158.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 160, and to the reading of the same, which

said exhibit reads as follows, to wit:

September 6, 1911.

Mr. Jacob Vande Grift,
Lloyd Block, Main Street,
Riverside, California.

Dear Sir:

Have just wired you that if you could sell the Haldman property this week, would take twelve thousand dollars, of which only \$3,000 need be cash. As you know this property recently sold for \$18,000, but as I am desperately in need of \$3,000 instantly, will sacrifice it, as above offered, providing [976] I can get the money without delay. This offer will not hold good beyond this week, as if I have to raise the money elsewhere would not think of selling the property at this price. If you do anything telegraph me to the above address, and I will send on a deed to be placed in escrow pending the usual examination of title and payment of the money.

As you know there is a first mortgage on the property of \$7,000, and the difference less cash payment I will take a second mortgage for at 7%, to run for two years.

Trusting you will be able to effect this sale, I am,

Very truly yours,

[Endorsed]: U. S. Exhibit 160.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and

on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LV.

The Court erred in overruling the objections of the defendant to the testimony of G. M. Byrd, and particularly erred in overruling the objection of the defendant to the following questions and answers:

Q. Now did you notice a statement in the folder there about the capitalization of the company at that time?

A. I don't know whether I did at that time or not, but I did in reading it.

Q. Did you speak to Mr. Smith about it?

A. Yes, sir.

Q. What conversation did you have with Mr. Smith [977] about the capitalization of the company.

A. I asked him if the million dollars was paid in and he said it was none of my business.

Q. Did you use these brown folders for the purpose of giving them to the people who came in reference to Panama lands?

A. Yes, sir; I don't know whether they were all brown or not, but we gave those little folders to the people.

Q. Did you either at that conversation or later conversation with Mr. Smith, discuss the timber lands in Panama?

A. I think he gave us some instructions in regard to it.

Q. What was it?

A. That is, four-fifths of the land was all that had to be cultivated, and that the parties could have another fifth in timber.

Q. Did he tell you where the timber land was?

A. I can't remember the province, but I think it was next to Cocle.

Q. Was it at Veraguas? A. Yes, sir.

Q. Did he indicate to you where Montijo was in *Viragues*? A. Yes, sir.

Q. Now calling your attention to Montijo Bay here in Veraguas, was anything said to you about that bay or that harbor?

A. I think my instructions from Mr. Smith were that this timber lay near Santiago, there in that section of Veraguas, and could be rafted to the port at Montijo, and from there could be taken wherever it was to be sold.

Q. Was anything said about the sort of harbor Montijo Bay was?

A. He said it was navigable. [978]

Q. Is that all?

A. That is as much as I can remember, I think.

Q. Did he indicate to you on United States Exhibit 40 any lands in Chiriqui?

A. Well, in a general way.

Q. Where were those lands situated?

A. Near David, and between David and Mount Chiriqui, along in here in this section here. (Mr. Regan indicating near the Costa Rican Border.)

Q. Did he indicate any land in the vicinity of David in Chiriqui? A. I don't remember.

Q. What sort of land did he say that was?

A. Citrus.

Q. Did he tell you anything about a sugar mill at Agua Dulce?

A. I forget now whether he told me there was one in operation or one being constructed. I can't be positive which.

Q. Either in operation or was being constructed at Agua Dulce? A. Yes, sir.

Q. What did he tell you about Guardia, other than to tell you his name and to say he was president?

A. I think he said he was the son of the Attorney General or the son of a man who had been Attorney General in Panama.

Q. What else did he say about his connection with the company and his connection with the Panamanian Government?

A. He said in having that connection in Panama that they were able to get better lands than an ordinary man going down to hunt it for himself.

Q. Were you given any instructions as to what to do with this land agreement that was executed?
[979]

A. I turned it in with the money. Those that was left.

Q. Were you instructed as to what would be done with those papers that the company kept?

A. Sent to Panama.

Q. Were you instructed for what purpose they were to be sent to Panama?

A. Yes. He said it was to go to Panama so that the land could be filed on.

Q. Were you told how soon these papers which

were kept by the company would be sent to Panama to be filed by the Government?

A. I believe Mr. Smith told us that they would be sent right away.

Q. Now, showing you U. S. Exhibit 43, the Plat of Agua Dulce, was that in the office there?

A. Yes, sir.

Q. Did you use that plat in selling land to Amiel?

A. I think I did.

Q. Did you indicate on that map where his land would be? A. Approximately, yes.

Q. Who told you what that plat was for, if anybody? A. Mr. Smith.

Q. And that you were to use it in showing purchasers where their lands would be?

A. Yes, sir.

Q. Did you tell Amiel whether or not that was Government land? A. Yes, sir.

Mr. SCHENCK.—I don't know whether my record is straight on this objection or not. My objection as to any and all conversations had between the witness and anyone else other than the defendant, [980] in the absence of the defendant, we object to that on the ground that they are incompetent, irrelevant and immaterial, hearsay and no foundation laid, particularly along the lines of the foundation indicated by the argument that is in the record now and that has been argued for some time before your Honor.

The COURT.—Your objection is overruled.

Mr. SCHENCK.—I understand that a great many

of these witnesses will have the same elements in it. Will it be stipulated that each and every question asked which seeks to adduce and show before the Court and jury the conversations, acts, declarations, and statements made by these various parties outside of the presence of the defendant, are objected to on the same ground as indicated in this objection, and that the objection is deemed to be overruled?

Mr. REGAN.—Yes, if you understand that the grounds of the objection are embraced in the Gooding case.

Mr. SCHENCK.—Is that satisfactory to the Court?

The COURT.—Yes, sir.

And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LVI.

The Court erred in overruling the objections of the defendant to the testimony of E. A. Lynn, and particularly erred in overruling the objection of the defendant to the following questions and answers:

Q. Who told you to mail them (showing U. S. Exhibit 48, a small brown folder)?

A. Mr. Smith, the manager, used to bring those letters [981] to my desk and have me sign them and we mailed them all out at different times.

Q. I show you this letter on the Panama Development Company paper, dated August 28th, 1911, addressed to Mr. F. L. Anderson, and ask you whether or not you wrote that letter?

A. Yes, sir.

Q. You wrote that letter? Was that envelope addressed by you? A. Yes, sir.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 164, and to the reading of the same, which said exhibit reads as follows, to wit:

“Principal Office:

City of Panama, Isthmus of Panama.

Surcusal:

City of David, Province of Chiriqui.

President, Sr. Hernan de la Guardia.

PANAMA DEVELOPMENT COMPANY.

216 Mercantile Place,

Between Fifth and Sixth Streets.

Telephone: Broadway 1050

Home A 3425

Los Angeles, Aug. 28, 11.

Mr. F. L. Anderson.

Dear Sir:

Yours of the 27th inst. received and contents noted. I can do as you requested for Mr. Funiman. I will reserve 20 acres for him in Block 29—right next to his other land— [982] on the same terms as he bought the other.

Thanking you & Mr. Funiman,

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By E. A. LYNN.

The envelope bears the postoffice cancelling stamp of Los Angeles, Cal., Sta C, Sug. 28, 5:30 P. M. 1911, and bears a two cent postage stamp cancelled.

Mr. Frederick L. Anderson,

Soldiers Home,

Ward 9.

Cal.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LVIII.

The Court erred in overruling the objections of the defendant to the testimony of E. A. Lynn, and particularly erred in overruling the objection of the defendant to the following questions and answers:

Mr. REGAN.—Q. Now I show you a letter similar to United States Exhibit 122, a three page letter, and call your attention to the signature there "L. R. Smith," and written in ink there "E. L." and ask you whether or not that "E. L." is in your handwriting?

A. Yes, sir, it is.

Q. Was this mailed after you wrote it?

A. I don't know, sir. Mr. Smith brought that letter over to my desk like he had done with other letters. [983]

Q. Mr. Smith brought it over with his signature on?

A. That signature is already made up.

Q. What did he bring it over to you and you put the "E. L." on there for?

A. We sent out lots of letters like these. That was our way of doing. If this form of letter went out of the office, whatever salesman sent them out, put his initials under there.

Q. You did not always do that, did you?

A. Well, as I remember, I did.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LIX.

The Court erred in overruling the objections of the defendant to the introduction of U. S. Exhibit 122, identified by the witness as the same as Exhibit 126, and which Exhibit 122 was substituted for Exhibit 126, and to the reading of the same, which said Exhibit reads as follows, to wit:

(Letterhead Panama Development Company.)

Los Angeles,

RE GOVERNMENT LANDS IN PANAMA.

Dear Sir:

Your attention is invited to Panama Government lands, which can now be obtained under such conditions as make them, virtually, a gift, the price being \$5.00 an acre; terms, \$2.50 upon application, and \$2.50 in four years, with no taxes to pay until one year after final payment is made.

The opening of the Panama Canal will undoubtedly work wonders in Panama, as it will mean the development of its Western Coast, which has a delightful climate and a soil of great fertility. [984]

It is not generally known that the death rate of this section of Panama is only about one-half of the average city in the United States, and it is in this particular region that the United States Government is building its Sanitarium for the Canal employees.

The lands in this section are extraordinarily fertile, and that they have not been developed heretofore has been due chiefly to two reasons: First, a lack of stable government: second, a total lack of transportation facilities. Since the United States has guaranteed the integrity of Panama, revolutions, which were formerly a *year* occurrence, have ceased, and now life and property there is as safe as in any State in the Union.

The Panamanian Government is naturally anxious to have its country developed, and every reasonable effort to that end is being made. In order to derive,

too, the fullest advantage from the opening of the Canal, the Government is now constructing a railroad from Panama to David, which will give easy access to this wonderfully fertile region, and open it to the markets of the world.

While at the present time Panama may seem remote, it will soon be a stopping place for the ships from all parts of the Globe, and no single port will enjoy such service, or have so many markets to choose from.

Until recently it has not been possible for other than a Panamanian to acquire Government lands, but since the United States came in, they have been thrown open to all Nationalities on equal terms, and considering their great desirability, the terms of payment cannot be considered onerous.

Arrangements have been made, too, whereby these lands may be cultivated on shares, so that all a prospective Colonist or investor in Panama lands need to is to purchase the raw land from the Government and the developing work can be paid from the crop itself. [985]

In this development we are acting as Government Agents, and applications placed with us will have the same force and effect as though lodged directly with the Government in Panama, and obviates the necessity of your making a personal application there.

The sugar industry, particularly promises to prove a very profitable one, as in this rich, virgin soil, resulting from the decomposition of vegetable and animal matter for Centuries, cane yields twice as

much saccharine matter per acre as Cuban lands, which are considered remarkably rich, and four times as much as Louisiana lands, which are the best in the United States. Furthermore when the cane is once planted, it reproduces itself from 15 to 25 years without replanting, which speaks for itself as to the fertility of the soil.

While all Government lands are the same price, those in districts which will have good transit facilities, and where foreign Colonists are established, will more rapidly enhance in value than lands in the back country. At the present time we are strongly advising the purchase of lands at Agua Dulce, Province of Cocle, one of the best sugar districts in Panama, where we recently arranged for the sale of 10,000 acres to an American Colony. A large sugar mill is now under construction in this town, which is directly on the line of the new railroad, has a fine harbor, *a* and is only about 100 miles from the Western entrance of the Canal.

Enclosed herewith is a map of Panama, together with a special map of the town of Agua Dulce, showing the lands sold in that district and what is still open, and with prompt action on your part we can locate you at this point. There is not an acre here that will not be worth ten times its cost by the time the Canal is opened, and much of it is likely to be worth from \$500. to \$1000. an acre.

Within the area as marked on the map, we will reserve 100 [986] acres for you at \$5.00 per acre, payable \$2.50 per acre down, and \$2.50 per acre in

four years, with no taxes to pay until one year after final payment is made.

The title to this land is perfect, being government title, and will come direct from the Government to the purchaser.

There can be no question regarding the value of the land, the advantages that will result from the opening of the Canal, and we trust you will not regard this as an ordinary Colonization project, but rather one where every safeguard is being offered by the Panamanian Government to Colonists and investors who may become interested in Panama lands, which are destined to prove very profitable to those acquiring same.

As earlier stated, we will, if desired, undertake cultivation of same on shares, according to the terms of contract, form of which is enclosed herewith, which you will see is fair to both parties.

We regard the growing of sugar cane as one of the most desirable forms of cultivation that can be taken up, as there is practically no hazard attached to it, and the returns cannot fail to be considered other than satisfactory, as after the first year, there will be a net return of from \$50. to \$75. per acre, and an income of \$5000 per annum may be expected after the first year, of which one-half would go to the owner of the lands, should the work be done on shares. (The United Fruit Company reported a profit last year of One Million, One Hundred Thousand Dollars (\$1,100,000.) from the cultivation of 24,000 acres. They are the largest cultivators of Panama Government lands, and this year will have

over 30,000 acres under cultivation).

It may be, now that your interest in Panama is aroused, you may wish to investigate personally as to our statements. [987] There is nothing that would be more welcome to us. Our position of co-operation with the Government is such that we will place you in communication with Governmental authorities, who will be only too glad to answer any communications addressed to them.

The Governing Board of this Company comprises some of the best known men in Panama. The President, HERNAN DE LA GUARDIA, is the best known scientific tropical agriculturist in Panama.

Another member of the Board, Sr. C. QUELQUEJEU, is head of the firm of C. Quelquejeu & Company, the most widely known merchants in the Republic.

Sr. Santiago de la Guardia, a third member, is the Attorney General of Panama, and was formerly Secretary of State of that country.

John Redpath, the vice-president, was formerly connected with the British Bank of North America, and all the Directors are well known men.

In the interval may we suggest that you make your reservation with such remittance as will indicate your good faith, and any request upon your part to return same, should your own personal investigation not bear out our statements, will find us only too willing to comply.

Regarding the amount of land that can be acquired; we can secure for you any part of 500 acres in the tract we have marked, or you may have any

smaller proportion, the minimum being 10 acres, on the same terms and conditions, both as to cost of land, and if desired, cultivation of same.

Awaiting the courtesy of an early reply, we are,

Very truly yours,

PANAMA DEVELOPMENT COMPANY,

By _____.

[Endorsed]: U. S. Exhibit 122.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant [988] and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LX.

The Court erred in overruling the objections of the defendant to the testimony of G. L. Maynard, and particularly erred in overruling the objection of the defendant to the following questions and answers:

Q. Who employed you? A. Mr. Redpath.

Q. Did he give you any literature when you called to see him?

A. Yes, sir—he gave me—I think there were two or three different pamphlets.

Q. Did he give you this "Gateway to Opportunity"? United States Exhibit 45.

A. Yes, sir.

Q. You were employed by the company, you say?

A. Yes, sir.

Q. To sell lands. Did you meet Mr. Smith?

A. Yes, sir.

Q. Who introduced you to Mr. Smith?

A. My recollection is that Mr. Redpath did.

Q. What were you told regarding the lands the government had for sale, where they were located?

A. I was told that there were government lands in the provinces of Chiriqui and Cocle.

Q. Any at Aqua Dulce?

A. That is in the province of Cocle.

Q. Did they mention Agua Dulce specifically?
[989]

A. I don't remember whether they did at that time or not.

Q. What sort of lands were they?

A. Tropical agricultural lands.

Q. Were they government lands? A. Yes, sir.

Q. Belonged to the Panamanian Government?

A. Yes, sir.

Q. During your connection with the company you saw the different kinds of literature, didn't you—"Mr. Careful Man," and the "Land of Opportunity," and the "Timber Resource" circular?

A. Yes, sir.

Q. And the little brown folders, and the little gray folders? A. Yes, sir.

Q. And you saw a great many multigraph letters there? A. Yes, sir.

Q. Those letters would be brought into the company's office? A. Yes, sir.

Q. Did you sign any of them?

A. Sometimes, yes.

Q. At whose direction would you sign them?

A. Well, I believe usually Mr. Smith's.

Q. Do you remember this form of land agreement, such as United States Exhibit 66A and B?

A. Yes, sir.

Q. That was used for the sale of land, filled out and executed, was it? A. Yes, sir.

Q. Did you receive any instructions from anybody in the [990] house, Mr. Smith or Mr. Redpath, as to what was to be done with this land agreement after it was executed?

A. Well, a copy of it was to be given to the purchaser.

Q. The one with the blue ribbon on it, or the ribbon on it?

A. Yes, sir. And then the power of attorney was to be filled out, and that would be sent with an application for the land to the land offices in Panama.

Q. To be filed with the Panamanian government?

A. Yes, sir.

Q. I will show you United States Exhibit 43, this plat of Agua Dulce. Was that in the office?

A. Yes, sir.

Q. At whose direction did you use this map of Agua Dulce. A. I cannot state positively.

Q. Did anybody refer you to it, or was it just in the office?

A. My mind is not clear on that. Probably Mr. Smith, but I would not state that positively.

Q. Was that used in selling to customers?

A. Yes, sir.

Q. Was there any reference made as to whether or not the port of Agua Dulce was a seaport?

A. Yes, sir.

Q. That it was a seaport? A. Yes, sir.

Q. And this circular matter which you had in the office there and which you have identified as seeing in the office, was distributed to the people who called at the office? A. Yes, sir.

Q. As well as different small maps of Agua Dulce? Were they given out as well? [991]

A. Yes, sir. I believe there were small maps of that. I am not quite positive. Yes, I am pretty sure there were.

Q. Let me show you this map, United States Exhibit 56. Was it a map like that? A. Yes, sir.

Q. That was used. And this map of Panama, United States Exhibit 57, a black and white map?

A. Yes, sir.

Q. And this map, United States Exhibit 58, the map of Panama? A. Yes, sir.

Q. And the map, United States Exhibit 59, the map of Panama, and Agua Dulce on the back?

A. Yes, sir.

Q. And this map 60, map of Panama, with Agua Dulce on the back? A. Yes, sir.

Q. Those were all used in the transaction of business with the purchasers? A. Yes, sir.

Q. Dr. Lyman used to come into the office?

A. Yes, sir.

Q. Frequently? A. Quite frequently, yes, sir.

Q. Did he give instructions to anybody down there?

A. Well, he usually talked with Mr. Smith when he came in. I could not say positively whether it was instructions that he was giving, but I have seen him talk with him frequently.

Q. Mrs. Doggin came in? A. Yes, sir.

Q. With whom did she confer when she came in?

A. Usually with Mr. Smith.

Q. You sometimes dictated letters of your own?

A. Well, occasionally, yes.

Q. Not very often? A. No, sir. [992]

Q. You used, as a rule, the multigraph letters which were sent in?

A. Yes, sir, practically altogether.
said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 166, and to the reading of the same, which said exhibit reads as follows, to wit:

Western Land & Timber Co.,

N. Campbell, Mgr.,

Office 316 Railway Exchange Bldg.

Portland, Oregon, Aug. 29, 1911.

Panama Development Co.,

216 Mercantile Place, Bet'n 5th and 6th Sts.,

Los Angeles, California.

Gentlemen:

I have your kind favor of the 22d inst., together

with offer for exclusive agency for your lands in the Province of Cocle, and your agricultural and timber lands in Panama, and thank you for the same.

Will say that I have friends who would purchase many thousands of acres of these lands upon my personal recommendation; and therefore in justice to myself, before offering any of your lands or accepting an agency for same, it is incumbent upon me to first know beyond question of doubt that every representation made by me in connection with the lands were true; therefore, before offering any of these lands, I *will* that you *to give* me the following information, which if found satisfactory^m will determine the question of my offering the lands and accepting the agency. [993] What I wish to know is:

1. Is your company a corporation, if so under what laws organized, when, and the amount of capital stock and amount paid in, name of officers and a copy of the by-laws of your corporation.

2. If a private company or co-partnership, name and address of the members and bank or other references.

3. Are the lands you are offering and agree to select for purchasers all surveyed lands, and if so whether by the government or otherwise, and if otherwise, name and address of person responsible for such survey.

4. Will parties purchasing lands and making first payment be given a receipt for such payment together with a description of their lands purchased by legal subdivision or by *meets* and bounds, send

copy of any such receipt.

5. How soon after purchasing Sugar lands in Provence of Cocle will your company agree to have the same cleared and cultivated?

6. On timbered lands, have same been *surved* as above suggested, and will you furnish me with full description of same, together with amount and kind of timber thereon and your authority for such estimate?

7. Reliable maps showing location of the lands offered.

Will say that I have no doubt at all about being able to dispose of a large amount of your lands if upon the most rigid investigation I find that the purchasers will secure absolute title to same and will get just what is represented when they make purchase.

If you therefore can satisfy me that all is right in every way, I will be pleased to enter into a contract with you for the [994] Agency for your lands and will push the sale of same throughout Oregon.

Very truly yours,

N. CAMPBELL.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said ob-

jections were duly and regularly taken and allowed.

LXII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 150, and to the reading of the same, which said exhibit reads as follows, to wit:

Sept. 5, 1911.

Mr. N. Canpbell, Mgr.

Western Land & Timber Co.

316 Railway Exchange Bldg.,

Portland, Oregon.

Dear Sir:

Replying to your favor of August 29th, would say this Company is a Corporation, organized under the laws of Arizona, with an authorized capital of \$100,000, of which \$50,000 has been paid in, in cash.

The enclosed three page circular letter written to some English clients gives full details as to the officers and directors, likewise the objects of this company.

The lands we are offering are government lands and have not been surveyed. This is done by the Government after a location has been made, and where there is any cultivation the Government when issuing definite title certifies as to the work done.

[995]

The enclosed contract, which please return after reading, shows what is given the purchasers and in addition to the receipt for the payment made carries a description of the land so far as the township is concerned, and the provisional title issued by the Government will define its legal boundaries.

Sugar lands purchased in the Province of Cocle will be placed under cultivation in November. The timber lands have not been surveyed nor cruised, and it is impossible to give you any estimate as to the amount or kind of timber thereon, but the illustrations on the leaflet sent you will give you a fair idea of same. The point is that these government timber lands at Montijo Bay are a gift at the price for they are not subject to taxation until cleared of timber and the land put under cultivation. The enclosed map is a reproduction of a government map and is absolutely correct but necessarily many things are omitted which will appear on the large map. We have one in the office here eight feet *swuare* prepared *vy* the war department but as we cannot obtain a duplicate the only thing we can do is to photograph it, which has been done.

If you will carefully read the literature handed you under separate cover, you will be able to obtain a very fair idea of the lands offered, and conditions under which they can now be obtained. Please remember we have no lands of our own for sale, and are merely acting as government agents for government lands, and applications lodged with us will have the same force and effect as though filed in Panama. Why do you not take a trip to Panama and look over the timber and sugar lands; you could do it nicely in ninety days, and would be well repaid for your trouble. We should be glad to give you letters of introduction that would aid you in getting

about with the least possible discomfort and expense.

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By _____.

B/C

Enc. [996]

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd, and upon the further ground that it is hearsay. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 167, and to the reading of the same, which said exhibit reads as follows, to wit:

May 26, 1911.

Messrs. French & Company,
509-10 I. W. Hellman Building,
Los Angeles, California.

Gentlemen:

Pursuant to our talk of today, we have set aside for thirty days, ten thousand (10,000) acres of Sugar Land, situated in Cocle Province, in the vicinity of Agua Dulce. This land is about one hundred (100) miles from Panama, on the line of the projected railroad. We expect you will be able to

do something on this within the next thirty days. It will be necessary to sell at *lease* one thousand (1,000) acres within sixty days, in order to hold the option.

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By _____.

R/C .

[Endorsed]: U. S. Exhibit 167.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its [997] procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd, and upon the further ground that it is hearsay. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 168, and to the reading of the same, which said exhibit reads as follows, to wit:

July 21, 1911.

Mr. R. Spofford French,
U. S. Grant Hotel,
San Diego, California.

Dear Sir:

Your favor of July 20th received and contents noted. Glad to know you have secured desirable quarters on the ground floor with one of the best

real estate firms, which should certainly work to your great advantage. You certainly got down to business very quickly.

Will send you a copy of such printed matter as we have. Regarding the proposed write-up in the San Diego papers: you are well qualified to do that, and suggest that you take care of it. So far as straight advertising is concerned, we will send the copy for that.

Will make a location on the map for you where you can place your clients.

Regarding the price of Government lands: If an applicant will go and survey the same at his own expense, make a map, and then lodge it in the government office, with a fee of \$1.00 per acre, he can obtain lands at that price, providing his location does not touch any others, and his maps are in accordance with the known boundaries. If there is any error in same he is obliged to do the work over again. [998]

As there are no transportation facilities in Panama at the present time, and no surveyors, except in Panama, and they receive \$12.00 a day and expenses, the cost would make it practically prohibitive for one individual to go and locate any lands, and our strong point is that through our connections we are able to have this done so that it will only eventually cost a buyer \$5.00 per acre.

Think your suggestion of depositing the money to our credit in some San Diego Bank, a good one.

You can sell at \$5.00 an acre until August 1st; after that the price will be \$6.00, subject to terms as indicated in the leaflet enclosed.

With best wishes for your success, we are,

Very truly yours,

PANAMA DEVELOPMENT COMPANY.

By _____.

(On reverse side in pencil:) Two packages expressed today. We buy stamped envelopes so they are none enclosed. You will find one map marked showing sales made. Better put your clients in block 60 and 64. There are supposed to be 1000 acres in each block. See Los Angeles Express 19, 20 and 21 (good write-up).

[Endorsed]: U. S. Exhibit 168.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd, and upon the further ground that it is hearsay. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXV.

The Court erred in overruling the objections of the [999] defendant to the introduction in evidence of U. S. Exhibit 169, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead Panama Development Company.)

San Diego, Calif., Aug. 1, 1911.

1053 Fourth St.

Mr. Lyman:

My dear Sir:—

I wrote a letter to the Company suggesting you

furnish me some references to show to customers and am today in receipt of a reply signed by Mr. Smith, saying if my customers are not satisfied to do business as now "to pass them up." That is all right for a clerk to say, but good business men don't do business that way. I have interested some men here who are considering getting up a syndicate to take your Company. They are men of standing in the community & naturally they will want to know your financial responsibility.

In *your own interest* (where I do business for a man I do what is for his interest as well as my own) I will tell you I have seen a report on your company from a Los Angeles Bank the substance of which is as follows: They do not know anything to your discredit but your financial statement is such a one that they cannot tell whether you are responsible or not. The only definite information they have is that you carry a good account but they can't learn anything of the standing of your officers.

There is a great deal in meeting men and becoming acquainted—which inspires confidence. These men here have never met you & as yet have made no inquiries & I have had a large experience in these matters & you want business. I can get it if you will let me do it my way, viz.: Where any customer holds back or I see he is going to start an inquiry through the banks, let me arrange that he pay his money into the bank where we are [1000] depositing (Southern Trust & Savings Bank)—I deposited \$250 there to your credit—under an escrow agreement by the terms of which the bank will turn over the money to

you upon your turning over the first papers from the government. After they once get the first papers it will be *smooth* sailing.

Another thing,—if you could turn over the first papers in a week or two, it would be different; but a man putting up *money* & waiting 3 or 4 months for first papers has a *right* to know something about your responsibility; and if you don't furnish that information, then he should have the right to deposit his money in a bank pending arrival of papers. In my opinion *ten* times the business can be done by placing the first money (however small the amount) in a bank. It gives immediate confidence. A man will tell others "You are perfectly safe for your money is in the bank and your papers come from the government."

Please let me hear from you by return of mail & greatly oblige.

Sincerely yours,

R. SPOFFORD FRENCH.

[Endorsed]: U. S. Exhibit 169.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXVI.

The Court erred in overruling the objections of the

[1001] defendant to the introduction in evidence of U. S. Exhibit 170, and to the reading of the same, which said exhibit reads as follows, to wit:

Los Angeles, August 2nd, 1911.

Mr. R. Spofford French,
1053 Fourth Street,
San Diego, California.

Dear Sir:

Replying to your esteemed favor of the 1st inst., while I appreciate the force of your suggestions, and how it would benefit the business, none the less, such a suggestion as you make is impracticable, as all the lands have to be paid for at the time of applying for same, and so it is necessary for applicants to make their payments when applying. There is really no way to get around this, for there is no one to finance the deal on such lines as you suggest.

I venture the prediction that the very people that are hanging back at the present time, a year from now will be climbing over themselves to purchase, and at much higher prices. Your are going to see the greatest move down there you ever saw.

It seems to me the enclosed circular letter covers about all the other points raised, and if not the general literature covers all that can be said at the present time.

With best wishes, I am,

Very truly yours,

[Endorsed]: U. S. Exhibit No. 170,
—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on

the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each [1002] and all of the rulings on said objections were duly and regularly taken and allowed.

LXVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. *Exhibit* 171, and to the reading of the same, which said *Exhibit* reads as follows, to wit:

Los Angeles, San Diego, Aug. 4,-11.

Panama Development Company.

Los Angeles,
Gentlemen:

Please reserve for 30 days 4000 acres, in addition to Block 301 & give me Block numbers by return of mail. I have interested a syndicate of nice fellows who are almost sure to take 5000 acres & pay $\frac{1}{2}$ down upon the agreement that the company (your company) plant to sugar cane.

Yours truly,

R. SPOFFORD FRENCH.

[Endorsed]: U. S. No. 171.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's ex-

ceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXVIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 172, and to the reading of the same, which said exhibit reads as follows, to wit: [1003]

August 5, 1911.

Mr. R. Spofford French.

1053 Fourth Street,

San Diego, Calif.

Dear Sir:

Your letter of yesterday to hand. As requested we reserved for your syndicate blocks 31, 32, 33 and 34. We will make contract to plant sugar cane on the basis of one-half of the profits for three years.

Yours very truly.

PANAMA DEVELOPMENT COMPANY.

By _____.

S/B

[Endorsed]: U. S. Exhibit 172.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd, and upon the further ground that the same is hearsay. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXIX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 173, and to the reading of the same, which said exhibit reads as follows, to wit:

San Diego, Aug. 7-11.

PANAMA DEVELOPMENT COMPANY,
Los Angeles.

Gentlemen:

I would like to reserve for myself a block on the railroad on October first. I will pay \$500 on it and then [1004] 10 cents per acre per month & give me a block as near town as possible.

Kindly let me hear from you by return of mail.

Yours truly,

R. SPOFFORD FRENCH.

[Endorsed]: U. S. Exhibit 173.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of the U. S. Exhibit 174, and to the reading of the same, which said exhibit reads as follows, to wit:

August 8, 1911.

Mr. R. Spofford French,
1053 Fourth Street,
San Diego, Calif.

Dear Sir:

In reply to yours of the 7th instant, we have reserved for you Block 51, and will accept payments on the terms mentioned in your letter.

You may also arrange the payments on your syndicate deal as you mention.

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By _____.

S/C

P. S.—If Mr. Poppe comes in, we will see that he meets Mr. Lyman [1005] at once.

[Endorsed]: U. S. Exhibit 174.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd, and on the further ground that the same is hearsay. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. 175, and to the reading of the same, which said exhibit reads as follows, to wit:

San Diego, Calif., July 31–11.

PANAMA DEVELOPMENT COMPANY,

Gentlemen:—

I want to call your attention to the advertising. The ad “You can buy 200 acres for the price of a city lot” is mighty bad judgment. This town is very *clannish*. Don’t run any ads which *reflect* upon investments here. Don’t make *comparisons*—they are bad!

Say something in the ads about the *climate*—like “remember there is no finer but a *healthy* climate back from the coast where these lands are located.”

So many people take it for granted the climate is very bad, they won’t take the trouble to come to the office and investigate.

Yours hastily,

R. SPOFFORD FRENCH.

[Endorsed]: U. S. Exhibit 175. [1006]

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant’s exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 176, and to the reading of the same, which said exhibit reads as follows, to wit:

San Diego, Aug. 10, —.

Panama Development Co.

Los Angeles.

Gentlemen:—

I have talked with several and in particular with the firm where I have office about advertising. They all tell me our ads are not the right kind. They say large display ads don't bring business here nearly so well as small display & "liners" run daily.

Starting off as we did and not keeping it up has made a bad impression. Even those in this office (whom I have converted to Panama) wonder at it. I wish you would let me place it from here *one week*, telling how much space I can use, and let me write the ads. The man to prepare the material is the man *on the ground*.

Conditions here are quite different from Los Angeles. I run a 3 line ad & have had more inquiries than from *all* you run this last time.

Remember, I have had a large experience in advertising! [1007] I haven't had a single person from your last advertising since Monday—While my *3 lines* have produced two men whom I am sure to sell.

Try me one week.

Yours truly,

R. SPOFFORD FRENCH.

[Endorsed]: U. S. Exhibit No. 176.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on

the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 177, and to the reading of the same, which said exhibit reads as follows, to wit:

August 11, 1911.

Mr. R. Spofford French,
1053 Fourth Street,
San Diego, California.

Dear Sir:

Inasmuch as you do not approve of our advertising, and *inasmuch* it is the best we can do, we would advise you to do your own advertising and pay for same yourself. With that end in view, we are prepared to allow you a commission of 30% and you are expected to pay all further expenses from your own office, and remit to us as called for by the contract, less the 30%. No further advances of any kind will be made you. [1008]

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By _____.

B/C

[Endorsed]: U. S. Exhibit 177.

—said objections to said introduction being taken as follows, to wit: we object to the introduction of the

same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of *U. S. Exhibit 178*, and to the reading of the same, which said exhibit reads as follows, to wit:

(On letterhead Panama Development Company.)

San Diego, Aug. 8-11.

Mr. John G. Lyman,

Los Angeles,

Dear Sir:

I have the five thousand acres (syndicate) to that point that I must ask you how we can show responsibility—from some source—that the land will be planted if they buy it. Who can we refer to at Panama: or how can the Panama Dev. Co. show their agreement to plant is a responsible agreement? The gentlemen who is interesting the other men to join in the purchase has just put this question to me. You fix this for me and I can land the sale.

Sincerely,

R. SPOFFORD FRENCH. [1009]

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and

seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and in the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXV.

The court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 179, and to the reading of the same, which said exhibit reads as follows, to wit:

August 9, 1911.

Mr. R. Spofford French,
1053 Fourth Street,
San Diego, California.

Dear Sir:

The charge for clearing and planting land to sugar cane is \$50.00 an acre, which includes harvesting and marketing. Simply to clear and plant the land would be \$40.00 an acre. We cannot reduce these charges to anybody. If the syndicate which proposed taking 5,000 acres prefers, they may deposit with the International Banking Corporation of Panama, \$25.00 an acre for the land they wish cleared and planted to sugar cane, to be paid to us when work is completed, and they need not advance a dollar other than payment for the land.

This is in answer to yours addressed to Mr. Lyman.

Yours very truly,
PANAMA DEVELOPMENT COMPANY.

By _____.

L/C

—said objections to said introduction being taken as follows, to [1010] wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd, and on the further ground that same is hearsay. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXVI.

The court erred in overruling the objections of the defendant to the testimony of J. E. Wagner, and particularly erred in overruling the objection of the defendant to the following questions and answers:

Q. What did he (Redpath) tell you?

A. He told me they were selling property down there; that they had sold 10,000 acres to an American colony or colonist, I couldn't say which, and that there was a railroad going through there some 250 miles in the interior. He told me that they were also clearing off land for purchasers for one-half of the crop for two years.

Q. Did he tell you whether they had any connection with the Panamanian government?

A. Yes, sir; he told me they were the exclusive agents of the Panamanian government.

Q. What did he say about a railroad, as to whether it was going to be *guilt* or was being built.

A. He told me the railroad would be completed in about six weeks.

Q. Did you speak to him about any Americans going down there?

A. Yes, I asked him if there were any Americans there. He told me they had sold 10,000 acres to the American colonists [1011] but it was not necessary to go down there, and he told me about the proposition to clear land off.

Q. Where did he say he sold the 10,000 acres to the American colonists?

A. If he did I don't remember. It is so long ago that I don't remember the details of the conversation.

Q. Would you remember the name of Agua Dulce?

A. Yes; that was mentioned.

Q. Did he show you this United States Exhibit 43?

A. I don't think I seen that map at all.

Q. Did you see a similar map?

A. It was a smaller map than that and there was a larger map also.

Q. On this small map of Agua Dulce did he indicate where he could give you lands?

A. Yes; he did. He told me where which different crops were grown, and I was only interested in sugar, and that is the only thing I can remember. I can point out the place that he showed me for sugar on the small map.

Q. On the small map or big map?

A. On the big map, too.

Q. The big map hasn't any—

A. The big map shows Coele. Here is Agua Dulce here. It was right in here some place.

Q. Are you sure that was not the map?

A. I am pretty sure it is not?

Q. United States Exhibit 43?

A. No, sir; I can't recognize that map. It is much larger than the other one. The other map was only about half as large as this and showed the whole country. That is, it showed the biggest part of the country any way. [1012]

Q. Did it show the country of Panama on one side and Agua Dulce on the other?

A. I don't remember that.

Q. Did he indicate by this map where he could locate you? A. Yes, sir.

Mr. SCHENCK.—The record will show that you are talking about the one in your hand, and I want the record so to show.

Mr. REGAN.—Very well. Did you have any conversation with him about exchanging your property?

A. Yes, sir; I did.

Q. What did you tell him?

A. I told him that I had 21½ acres at Lawndale with a 9-room house, and my proposition was that he assume a mortgage of \$800.00 and give me \$1000 cash and give me the balance in land. This conversation came up with Redpath. He told me he couldn't do anything about it; he would have to take it up before the board of directors. In a few days I got a letter which is in evidence here and I called in reply to that letter.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial,

hearsay and no foundation laid. And defendant's exception to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 180, and to the reading of the same, which said exhibit reads as follows, to wit: [1013]

(Letterhead Panama Development Company.)

Los Angeles, July 10, 1911.

Mr. J. E. Wagner,

Box 57 Lawndale, Los Angeles Co.,
California.

Dear Sir:

Referring to our conversation a few days ago in regard to exchanging your property for Panama Land, we wish to inform you that we have taken this matter up with the view to securing you a large cash payment on your property in addition to a certain acreage of Panama Land.

If you will kindly call at this office at your earliest convenience, we shall be glad to talk the matter over fully with you. We believe that we can make an arrangement which will be very satisfactory to you.

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

M/C

G. L. MAYNARD.

(Envelope attached) Mr. J. E. Wagner, Box 57,
Lawndale, Los Angeles Co., California.

(Stamped) Los Angeles, Cal. Sta. C Jul 10, 5.
P. M. 1911.

(Stamped on back) Lawndale Jul A. M. 1911, Cal.
[Endorsed]: U. S. Exhibit 180.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd, and on the further ground that the same is hearsay. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXVIII.

The Court erred in overruling the objections of the [1014] defendant to the testimony of Fred Irwin Palmer, and particularly erred in overruling the objection of the defendant to the following questions and answers:

Q. When you walked into the office of the company you spoke to the man at the desk?

A. Yes, sir.

Q. And talked to him about the land that the company was selling?

A. I asked him in regard to the lands that I saw advertised in the paper, and he told me that they had lands at Panama that were for sale, and I asked the price of the lands, and it was stated in the papers as well, and he said \$5.00 per acre. I asked in regard to the terms and the land, and he told me.

Q. Was there anything said about the connection of the company with the Panama Government?

A. Yes; I asked him if I should buy lands what assurance I would have if I paid the money that the money would be applied on the lands, and he said that they had references right here in the city to which I could go to obtain the necessary information, and they named two or three different parties. One of these parties was the Security Savings Bank.

Q. Who else did they name?

A. I don't recall, because I didn't look them up.

Q. Was anything said with reference to any connection between the company and the Panama Government?

A. Nothing, only that the Panama Government would issue a provisional deed or contract upon receiving money for the land.

Q. What did they tell you as near as you can remember? Just omit "they gave me to understand" and repeat what they told you.

A. They had to pay these moneys to the Panama Government [1015] and for the surveys.

Q. See if I can refresh your memory. Was anything said about selling lands in New York?

A. Oh, yes; I asked him in regard to whether or not they had any other companies besides the Panama Development Company in Los Angeles, and they said they were the only company that represented the Panama lands.

Q. Did they say anything with respect to representing the Panama Government?

A. I wouldn't say as to that, only in connection

with the lands, that they had to purchase the lands of the Panama Government.

Q. Did they tell you what would be done with the money that was paid to them?

A. They told me it would have to be paid to the Panamanian Government for the surveys and so forth.

Q. Was anything said about the title coming from the Panamanian Government?

A. They told me a contract or provisional title would be received from them and also the identical description of the lands, but it would take some days to do that.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXIX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 181, and to the reading of the same, which said exhibit reads as follows, to wit: [1016]

Original. Los Angeles, Cal. May 18, 1911.

WILLIAM RANDOLPH HEARST—We hereby authorize you to insert one advertisement in the Display Columns of the LOS ANGELES EXAMINER, as follows: Fourteen lines or more daily and Sunday for six months to commence May 18th, 19— to expire November 17th, 1911, for which we promise to pay to WILLIAM RANDOLPH

HEARST at the rate of

\$07-1/2 per line, Daily.

\$.10 per line, Sunday.

1.05 per inst.

1.40 " "

The foregoing rates must conform to the "Examiner's" Rate Card in effect February 15, 1911, otherwise this contract is void. If for any reason this contract is canceled before completion, advertising will be paid for at regular short time rates. Advertisements of objectionable character will not be considered a part of this contract. All advertisements are payable in advance unless arrangements for credit are made with the management. Accepted for William Randolph Hearst. Panama Development Company and Los Angeles Examiner.

Address L. R. Smith Sec

Business 216 Merc Blk

Representative Arac Estate

(On back) received May 18 1911 Answered

. . . . Advertising Manater.

[Endorsed]: U. S. Exhibit 181.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

[1017]

LXXX.

The Court erred in overruling the objections of

the defendant to the introduction in evidence of U. S. Exhibit 183, and to the reading of the same, which said exhibit reads as follows, to wit:

TO INVESTORS Within the past week the following advertisement has appeared in the daily press of Los Angeles.

FOR SALE — COFFEE PLANTATION LOCATED AT Boquete, Province of Chiriqui, Republic of Panama.

300 acres set out in Coffee Trees, 16 years old, with large house and all necessary out-buildings. One of the finest Plantations in the Republic. Price \$40,000 gold. Property is earning 20 per cent. per annum on this price. Terms \$10,000 gold down and a mortgage for \$30,000 at 8 per cent. for as long as may be desired. A 90-day option will be given the purchaser to examine the Plantation and verify the earnings, which have exceeded \$8000 a year for the past five years.

PAN AMERICAN INVESTMENT COMPANY

We know the above property and that the statement of earnings is correct; furthermore, that there is no better plantation in the Republic, but, we wish to say this, we have government lands, *adjoining* this property, at \$6.00 an acre, payable \$3.00 down and \$3.00 in four years, which are equally as good. All they lack is cultivation. What has been done by others can be done by you, and there is no better purchase in the entire world than these government lands, which are destined to greatly increase in value with the opening of the Canal. Come in today.

PANAMA DEVELOPMENT COMPANY

216 Mercantile Place.

Between Fifth and Sixth Streets

Los Angeles.

[Endorsed]: U. S. Exhibit 183. [1018]

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 184, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company.)

Los Angeles, June 20, 1911.

Mr. Thomas O'Rourke,

Box 51, R. F. D.,

San Fernando, California.

Dear Sir:—

We have your valued favor of the 16th instant regarding the Government lands for sale in Panama, and we take pleasure in advising you that we will accept payment in two installments of \$12.50 each. You obtain provisional title from the government upon receipt of the second installment, and definite title at the end of four years when final payment is made. No interest or taxes are required during this period.

We are handing you herewith complete descriptive literature regarding the land, and would be glad to have you fill out the enclosed application blank and send it to us at once.

At the present time we have some very fine land open along the new railroad, now being constructed from the City of Panama to the City of David, in the province of Chiriqui. This land is less than 100 miles from the western entrance of the [1019] Canal, and is located at the town of Agua Dulce, in the province of Coele; a large tract in this locality has been sold to an American Colony, who will erect a sugar mill, and plant all of their land to sugar cane. This land is selling quite rapidly, and will undoubtedly be disposed of at an early date, so to be sure of securing a location in this particular district, we would ask that you favor us with your application at once.

We are in a much better position to make this selection for you than though you were on the ground to act for yourself, as we have experts who are familiar with the different locations and every existing condition.

We feel so confident that our selection would please you, that we are willing to agree to refund to you your money at any time within two years, upon the assignment of the provisional title to us, if for any reason you should be dissatisfied with purchase.

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

L. R. SMITH, Secty.

S/C.

[Endorsed]:

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid, and defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 185-A, and to the reading of the same, which said exhibit reads as follows, to wit: [1020]

(Letterhead of Panama Development Company)

Los Angeles, June 24, 1911.

Mr. Thomas O'Rourke,

Box 51, R. F. D.,

San Fernando, California.

Dear Sir:—

We have your favor of the 23rd instant, and are enclosing you herewith application blank as requested. We regret that this was not sent you with our previous letter, and trust that you will avail yourself of the opportunity to file upon the land immediately, and send your application in by return mail.

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

L. R. SMITH.

S/C Enc.

[Endorsed]: U. S. Exhibit 185-A.

—said objection to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial,

hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 185-B, and to the reading of the same, which said exhibit reads as follows, to wit:

APPLICATION FOR LAND (in pen) T. O'Rourke.
Panama Development Company,
216 Mercantile Place,
Los Angeles, California.

Dear Sirs:

Enclosed please find \$——, for which please [1021] purchase for my account, at \$5.00 per acre; payable \$2.50 per acre upon application, and \$2.50 per acre within four years, — acres of Government agricultural lands in the district of Agua Dulce, Province of Cocle, Republic of Panama, suitable for the cultivation of Sugar.

I further agree to pay you the sum of \$2.50 per acre as above specified within a period of four years, it being optional with me as to when I shall make the payment during the period named. It is mutually understood and agreed that I shall not be called upon to pay any interest or taxes under this agreement.

Name _____.

Address _____.

(Perforation)

(If you wish the land cultivated, sign the enclosed agreement and return with your application. The

agreement regarding cultivation binds you to nothing except to permit us to develop the land on shares, and if thus cultivated, it should be placed on an income-producing basis within 18 months. Should you desire, you may add anything to the agreement which you feel will further protect your interests.)

PANAMA DEVELOPMENT COMPANY,

216 Mercantile Place,
Between Fifth and Sixth Sts.
Los Angeles, California.

[Endorsed]: U. S. Exhibit 185-B.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.
[1022]

LXXXIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 186-A, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company.)

Los Angeles, June 28, 1911.

Mr. Thomas O'Rourke,

Box 51, R. F. D.,

San Fernando, California.

Dear Sir:—

We are handing you herewith two maps, one showing the Panama Country in general, and the other

the Colony at Agua Dulce, in the province of Cocle. We have marked on the first map the location of this colony, and can locate you in the block marked with a cross, or any unsold block that you may select. We are also handing you herewith application blank, and trust that you will fill same out at once *an* forward to us with proper remittance.

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

L. R. SMITH,

S/C.

Secty.

[Endorsed]: U. S. Exhibit 186-A.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent, and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 186-C, [1023] and to the reading of the same, which said exhibit reads as follows, to wit:

(Envelope) (2m canceled two cent stamps.)

(Postmark) Los Angeles, Cal., Jun. 28, 6:30 P. M., 1911. Sta. C. Mr. Thomas O'Rourke, Box, 51, R. F. D. San Fernando, Calif.

[Endorsed]. U. S. Exhibit 186-C.

—said objection to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's

exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXVI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 187, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company.)

Los Angeles, July 1, 1911.

Mr. Thomas O'Rourke,

Box 51, R. F. D.,

San Fernando, California.

Dear Sir:—

We take pleasure in acknowledging receipt of your favor of the 28th ultimo, containing check for \$12.50, which we have placed to the credit of your account under the usual reservation, this being the first installment on ten acres of land at \$5.00 an acre, in Panama; the second installment of \$12.50 being due on or before August 1st, and the balance of \$25.00 in four years from date without interest or taxes.
[1024]

We will plant this ten acres for you and take the expense out of the first two crops. The land will be planted as soon as Provisional Title is received from the Government. We have about reached the limit that we care to cultivate in this manner, and if you care to take up more land, we would advise you to send in your application at once, even with a nominal deposit that we may reserve same for you and hold it until you are able to make the full payment. In

this manner you will be assured of the property adjoining the ten acres which has already been located for you, and at the price of \$5.00. You understand that this price will be raised the latter part of this month to \$6.00. Regarding the timber lands that you mentioned, there are absolutely no conditions laid down as in the agricultural lands. It is simply a matter of paying for same and holding them as long as you care to. We have timber land open in the Province of Veragua, which you may file upon without taking up any agricultural land. This is an unusual condition, and will not last long as there are only 16,000 acres in the tract. We thank you very much for having considered this agency in making the purchase, and we assure you of our co-operation at all times.

Yours very truly,

PANAMA DEVELOPMENT COMPANY,
C/C. L. R. SMITH.

P. S.—We are enclosing you herewith Land Agreement covering your purchase, and would ask that you kindly **sign and detach the two inner sheets** marked with a cross, and return to us at your earliest convenience.

[Endorsed]: U. S. Exhibit 187.

—said objections to said introduction being taken as follows, [1025] to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of the following Exhibit, and to the reading of the same, which said exhibit reads as follows, to wit:

“Application for Land.” No. 30.

Panama Development Company,
216 Mercantile Place,
Los Angeles, California.

Dear Sirs:

Enclosed please find \$12.50 cts for which please purchase for my account ten acres of government land in the Republic of Panama, suitable for the cultivation of sugar and ——— acres of timber land. I further agree to pay you the sum of \$12.50 per acre for each and every acre so purchased for my account within a period of four years^m, it being optional with me as to when I shall make payment during the period named, and it is mutually understood and agreed that I shall not be called upon to pay any interest or taxes under this agreement.

Name—Thomas O'Rourke,

Address—Box 51, R. F. D.,

San Fernando.

No. 30.

“Know all men by these presents, that I do hereby constitute and appoint Senor Hernan de la Guardia my true and lawful attorney with full power of substitution for me and in my name, place and stead to locate and purchase government land in the [1026] Republic of Panama, and to attend to all matters pertaining to same, with all the powers I would pos-

sess if personally present.

In witness whereof, I have hereunto set my hands and seal this first day of July, 1911.

THOMAS O'ROURKE. (Seal)

(Signed, Sealed and Delivered in the presence of)

(Seal)

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXVIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 151, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company.)

Los Angeles July 24, 1911.

Mr. Thomas O'Rourke,
Box 51, R. F. D.,
San Fernando, Calif.

Dear Sir:—

We are in receipt of your favor of the 21st instant containing remittance of \$15.00. Will forward contract as soon as made out. We thank you very much for this remittance, and assure you that we will make a good selection for you.

We are also in receipt of your favor of the 23rd instant, containing the signed contract. We regret same was not [1027] filled in before it was sent you, but will fill it in here.

The name and address of the physician you spoke of is Dr. John G. Lyman, 2068 Hobart Boulevard, Los Angeles.

Again thanking you for the remittance, we beg to be

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

By L. R. SMITH.

S/C.

[Endorsed]: U. S. Exhibit 151.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXIX.

The Court erred in overruling the objections of the defendant to the testimony of Thomas O'Rourke, and particularly erred in overruling the objection of the defendant to the following questions and answers:

Q. Did you have a conversation with Mr. Byrd at that time? (At the office of the Panama Development Company.)

A. Yes, I had a short conversation with Mr. Byrd.

Q. What was that conversation?

A. About the Panama Development Company lands in Panama.

Q. What did he tell you?

A. He told me it was a very good proposition; I could make plenty of money out of the land after a while.

Q. (Mr. REGAN.) Not word for word, but as nearly as you can remember, what he told you. [1028]

A. He told me to get the title from the Panama Government after the four years, original title in two years, and full title in four years when the land would be paid for, and he told me the land was situated near the railway, and he told me the timber land was very valuable.

Q. What else did he say?

A. That is about all he said. I was not speaking to him for a very long time, and then I went into Mr. Redpath's office.

Q. Did Byrd show you where the lands were situated? A. He showed me the map.

Q. I show you United States Exhibit 43, and ask you whether or not he showed you that map, the map of Agua Dulce? A. Yes, sir.

Q. Did he indicate to you on that map where your lands were?

A. Near this railway here, from Panama to David.

Q. Do you remember the block number?

A. I think it is 44.

Q. What did he tell you, if anything, about a railroad?

A. He told me the railroad was to be built; the

Government had called for bids for a railroad between Panama and David.

Q. Did he tell you anything about a sugar mill at Agua Dulce?

A. Yes, I understood that the sugar mill was to be built.

Q. The sugar mill was to be built?

A. Yes. He told me they had been given a concession to build it.

Q. Did he tell you anything about selling any land to the American Colony down there? [1209]

A. No, I don't think so. I remember asking to have my land as near as possible to the American Colony, but I don't believe he said anything about it.

Q. You say you went in to see Mr. Redpath?

A. Yes.

Q. What conversation did you have with him?

A. I saw Mr. Redpath about asking him about buying five shares I owned in the Los Angeles Investment Company, and also a lot in Arch Beach Heights that I owned.

Q. What was that conversation? What was said and what was done?

A. When I wrote I asked him to give me \$30 for the lot, and then we agreed to that, and then he phoned to the company and got the company's price they gave for the shares at that time, and he allowed me for that and I paid the \$12.50 that was due on the second ten acres, paid the recording fees, and went to the bank, and he gave me a check for the balance.

—said objections to said introduction being taken as

follows, to wit: We object to the introduction of the same as irrelevant, incompetent, and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 188, and to the reading of the same, which said exhibit reads as follows, to wit: [1030]

(Letterhead of Panama Development Company.)

Los Angeles, July 27, 1911.

Mr. Thomas O'Rourke,

Route 51, R. F. D.

San Fernando, Calif.

Dear Sir:—

We are handing you herewith contract covering 60 acres of Timber Land in the Veragua District. Kindly sign and detach duplicates as heretofore, and return to us.

We are also handing you under separate cover a pamphlet recently issued on Timber Lands.

We think you have made an excellent purchase in this contract, and will aid you in every way possible in proper disposition of same when time comes.

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

By L. R. SMITH.

S/C.

Enc.

[Endorsed]: U. S. Exhibit 188.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent, and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXXI.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 189, and to the reading of the same, which said exhibit reads as follows, to wit:

Box 51, R. F. D.

San Fernando,

23rd July, 1911. [1031]

Dear Sir:

Recd agreement in due course which I am now returning, signed as you requested.

You can fill in the details.

I am quite satisfied with the arrangements mentioned therein, and I don't see that I can add anything to it to protect my interests.

I am confident that you will give me a "square deal" and that is as much as anyone can expect.

You might let me have the name and address of the physician who returned from Panama lately, after making a large investment there. Let me have receipt for the \$15 I sent you on last Friday evening as soon as possible.

Yrs. truly,

THOS. O'ROURKE.

The Secretary.

[Endorsed]: U. S. Exhibit 189.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of *U. S. Exhibit 190*, and to the reading of the same, which said exhibit reads as follows, to wit: [1032]

(Letterhead of Panama Development Company.)

Los Angeles, July 20, 1911.

Mr. Thomas O'Rourke,
Box 51, R. F. D., #1,
San Fernando, Calif.

Dear Sir:

We are in receipt of your favor of the 18th instant containing \$12.50 due on first contract, and we have placed same to the credit of your account.

Regarding the Timber land, would say the terms stated in your letter are entirely satisfactory to us, and we would be very glad to take care of your application at once on such an arrangement.

We will send you a receipt to apply on your first contract, and will write you further regarding your letter at a later date.

Thanking you very much for your remittance, we beg to be,

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

By L. R. SMITH.

S.C.

[Endorsed]: U. S. Exhibit 190.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent, and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXVIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 191, and to the reading of the same, which said exhibit reads as follows to wit: [1033]

Box 51, R. F. D.,

San Fernando,

18th July 1911.

Dear Sir:

Very pleased to find by your letter of the 14th inst., that you will allow me to take up timber land in Panama on any terms I may suggest. Having regard to the state of my finances, and after making calculations on the matter, I would suggest that you kindly allow me to take up 60 acres (that is three tracts I understand) by paying 25 cents per acre down, and 10 cents per acre per month, until paid for. That works out nicely, as by paying \$15, to start with, leaving \$285 to be paid in sums of \$6 per

month, the total being paid in less than 4 years. The rule which you will start Aug. 1st, gives a person 60 months or 5 yrs. to pay in full. If I could pay 50 cents per acre down I would do it, but you see, after paying you \$25 on the other two contracts, and having to pay you \$25 more, it leaves my balance pretty slim, indeed besides I have insurance to pay for. Some time ago I purchased a lot and also bought shares in an Investment Co. which is paying a good dividend. If I had only found you out before investing in *some* many ways, I would have purchased quite a lot more in Panama. You may be certain, that in future I'll buy all I can from you, after you promised to cultivate and plant the 20 acres for me.

If I can see my way to clear up balance due on this timber land, I'll gladly do so at the first opportunity. When do you expect the provisional title for the first 10 ac. I applied for. I suppose you will make arrangements to have it planted as soon as possible out of the proceeds of the 1st crop. I'll be able to pay the \$2.50 per acre due within 4 yrs. of course, I don't know what percentage you retain for work, planting, care &c but I would like to know at your convenience. I understand [1034] a sugar crop matures in 15 months. Kindly give me details about financial arrangements &c. Also let me know at once, is the arrangements I have suggested re timber land, satisfactory to you. When I hear from you, I'll send application.

Yrs truly,

THOS. O'ROURKE.

The Secretary.

P S.—Fearing I'd forget, I enclose 2nd instalment of \$12.50 due by me on 1st contract \$7 in bills & \$5.50 check. Kindly acknowledge by return mail and oblige.

T. O'ROURKE.

P. S.—Kindly apply for the timber land for me where gold has been found.

[Endorsement]: U. S. Exhibit 191.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant, and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of the testimony of Frederick Lawrence Anderson, and particularly erred in overruling the objections of the defendant to the following questions and answers:

Q. Who did you see?

A. I seen Mr. Lynn, and I was introduced to the vice-president, Mr. Smith. [1035]

Q. Mr. Redpath? A. Mr. Redpath, yes.

Q. Did you have a conversation with Mr. Lynn at that time about the lands?

A. Yes. I asked him for all the information regarding the land, and everything about it.

Q. Did you have an conversation with him about

who owned the lands?

A. He said they were owned by the Panama Government.

Q. What else did he tell you?

A. And land bought there in the office, the papers would be sent to Panama and you would get the deed from there.

Q. From the government of Panama?

A. Yes, sir.

Q. What else did he tell you?

A. He said there was a million dollar sugar mill already there in Agua Dulce and there was a railroad under construction running from Panama to the city of David, and the work had commenced at both ends, but not—had not progressed very far yet. And that they had sold 10,000 acres to a colony of Americans that were already there and doing business.

Q. Where, in Agua Dulce? A. In Agua Dulce.

Q. Did he show you a map?

A. Yes, sir; he showed me a map.

Q. Did he show you this large map, United States Exhibit 40?

A. Yes; he pointed out the locality on the map, but it hung so high there I could not see it, and I asked for a smaller map.

Q. Did he show you this United States Exhibit 43?

A. Yes, sir.

Q. Did he indicate to you on that map where he could locate you, where he could give you land?

A. Yes. I wanted a place here at Agua Dulce, but he would not give it to me, and the only location I

could get was in plat 29. [1036]

Q. As shown on United States Exhibit 43. You selected 29 did you? A. Yes, sir.

Q. Did you have any conversation with him regarding the company cultivating the land?

A. Yes, sir.

Q. What did he tell you about that?

A. He said there was a development company there that would cultivate the land and take so much out according to the contract. I have the contract now in my pocket.

Q. Develop the land which you bought?

A. Yes.

Q. Did he tell you whether or not they were already cultivating the land there?

* * * * *

Q. Now, these papers which you have just identified, and which Mr. Lynn kept, did he tell you what he intended to do with them?

A. Well, the government was in Panama, and they were to be sent there.

Q. To be filed with the government there?

A. To be filed by the government.

Q. (By Mr. REGAN.) At the time you called with Mr. Farman at the office of the Panama Development Company, you saw Mr. Lynn?

A. Yes, sir.

Q. What did Mr. Lynn tell you and Mr. Farman?

A. Well, he told us just the same thing—he told Mr. Farman just the same thing he had been telling me in regard to this million dollar sugar mill and the railroad that was under construction, and the ad-

vantages of the land, fertility of the soil.

Said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent, and immaterial, hearsay and no foundation laid. And defendant's [1037] exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXXV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 192, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of the Panama Development Company.)

Los Angeles, July 13, 1911.

Mr. Frederick L. Anderson,

Ward 9, Soldiers' Home, California.

Dear Sir:—

Acknowledging your valued favor we beg to enclose herewith a map of Panama, which shows also the district of Agua Dulce, one of the best sugar districts in the country, and where we recently sold a large tract an *an* American colony.

This town is directly on the line of the new railroad, and close to tide-water as well, and without a doubt the lands in this particular vicinity will more rapidly enhance in value than those in the back country, and as all lands are the same price, we should advise you to purchase in this particular district.

Within the area marked on the map we will reserve any part of 50 acres for you at \$5.00 per acre,

payable \$2.50 down and \$2.50 in four years, with no taxes to pay until one year after final payment is made, and if you desire, you can arrange through us for the cultivation on shares.

We really think this is one of the most desirable purchases that can be made, and should you desire further information we shall be glad to advise.

As the price of the lands advances August 1st to \$6.00 per acre, your early application will be necessary to obtain it under the terms now prevailing.

Very truly yours,

PANAMA DEVELOPMENT COMPANY,

By L. R. SMITH.

[Endorsed]: U. S. Exhibit 192.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as irrelevant, incompetent, and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXVI.

The Court erred in overruling the objections of the defendant to the introduction of U. S. Exhibit 164, and the reading of the same, which reads as follows, same being identified by the witness Frederick L. Anderson as being a letter that he received through the mail. [1038]

“Principal Office:

City of Panama, Isthmus of Panama.

Surcusal:

City of David, Providence of Chiriqui.

President, Sr. Hernan De La Guardia.

PANAMA DEVELOPMENT COMPANY.

216 Mercantile Place,

Between Fifth and Sixth Streets.

Telephones: Broadway 1050

Home A3425

Los Angeles, Aug. 28, '11.

Mr. F. L. Anderson,

Dear Sir:

Yours of the 27th inst. received and contents noted. I can do as you requested for Mr. Funiman. I will reserve 20 acres for him in Block 29—right next to his other land on the same terms as he bought the other.

Thanking you & Mr Funiman,

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By E. A. LYNN.

The envelope bears the postoffice canceling stamp of Los Angeles, Cal., Sta. C., Aug. 28, 5:30 P. M., 1911, and bears a two cent postage stamp canceled.

Mr. Frederick L. Anderson,

Soldiers' Home,

Cal.

Ward 9.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial,

hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXXVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 193-A, and to the reading of the same, which said exhibit reads as follows, to wit:

PANAMA DEVELOPMENT COMPANY
LAND AGREEMENT.

THIS AGREEMENT made and entered into this — day of —, 1911, by and between the Panama Development Company, a corporation hereafter known as the party of the first part, and — of —, party of the second part.

WITNESSETH:

The said party of the second part, being desirous of purchasing — acres of Government land in the Province of —, Republic of Panama, and whereas the party of the first part, through its authorized agents, is able to locate and purchase said land as an agent for the party of the second part.

NOW THEREFORE, the said party of the second part does hereby authorize, appoint, designate and name the PANAMA DEVELOPMENT COMPANY as — true and lawful agent and attorney to purchase in the name of the party of the second part — acres of agricultural land suitable for the cultivation of — and — acres of timber land in the province of —, Republic of Panama.

IT IS FURTHER AGREED that for and in consideration of the party [1039] of the first part

through its authorized agents locating and purchasing said lands, the party of the second part hereby agrees to pay to the party of the first part the sum of \$2.50 per acre for each and every acre so located and purchased.

AND IT IS FURTHER AGREED by and between the parties hereinbefore mentioned, that a further sum of \$2.50 for each and every acre so located and purchased shall be paid to the party of the first part within a period of four years, it being optional upon the party of the second part as to when — shall complete Title during the period named. It being mutually understood and agreed that the party of the second part shall not be called upon to pay any interest or taxes under this agreement.

IN WITNESS WHEREOF the parties to these presents have hereunto set their hands and seals the day and year first above written.

(Seal)

_____ Seal.

_____ Seal.

Signed, sealed and delivered in the presence of,

_____ (Seal)

PANAMA DEVELOPMENT COMPANY
LAND AGREEMENT.

THIS AGREEMENT made and entered into this — day of —, 1911, by and between the Panama Development Company, a corporation hereafter known as the party of the first part, and — of — party of the second part.

WITNESSETH:

The said party of the second part, being desirous of

purchasing — acres of Government land in the Province of —, Republic of Panama, and whereas the party of the first part, through its authorized agents, is able to locate and purchase said land as an agent for the party of the second part.

NOW, THEREFORE, The said party of the second part does hereby authorize, appoint, designate and name the Panama Development Company as — true and lawful agent and attorney to purchase in the name of the party of the second part — acres of agricultural land suitable for the cultivation of — and — acres of timber land in the Province of —, Republic of Panama.

IT IS FURTHER AGREED, that for and in consideration of the party of the first part through its authorized agents locating and purchasing said lands, the party of the second part hereby agrees to pay to the party of the first part the sum of \$2.50 per acre for each and every acre so located and purchased.

AND IT IS FURTHER AGREED by and between the parties hereinbefore mentioned, that a further sum of \$2.50 for each and every acre so located and purchased shall be paid to the party of the first part within a period of four years, it being optional upon the party of the second part as to when — shall complete Title during the period named. It being mutually understood and agreed that the party of the second part shall not be called upon to pay any interest or taxes under this agreement.

IN WITNESS WHEREOF the parties to these presents have hereunto set their hands and seals the

day and year first above written.

_____ (Seal)

_____ (Seal)

Signed, sealed and delivered in the presence of

_____ (Seal) [1040]

POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS,
That I do hereby constitute and appoint SENOR
HERNAN DE LA GUARDIA my true and lawful
attorney with full power of substitution for me and
in my name, place and stead to locate and purchase
Government land in the Republic of Panama, and
to attend to all matters pertaining to same with all
the powers I would possess if personally present.

IN WITNESS WHEREOF I have hereunto set
my hands and seal this — day of —, 1911.

_____ (Seal)

Signed, sealed and delivered in the presence of

_____ (Seal)

PANAMA DEVELOPMENT COMPANY.

Received on the within contract the sum of —
Dollars (\$—).

[Endorsed]: U. S. Exhibit 193-A.

The following is to supply the blanks in said exhibit, and reads as follows: The name is Fritz C. Friman, the party of the second part, and the Panama Development Company the party of the first part, and provides for 20 acres in Cocle, 15 sugar land and 4 acres of timber land, signed by the Panama Development Company, John Redpath, vice-president, Fritz C. Friman, by Frederick L. Anderson, and witnessed by E. A. Lynn.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXVIII.

The Court erred in overruling the objections of the defendant to the introduction of *U. S. Exhibit 194*, and to the reading of the same, which said exhibit reads as follows, same [1041] being identified by the witness Michael Werner as being a copy of a letter that he received through the mails.

May 23, 1911.

Mr. Michael Werner,
1208 C. Street,
San Diego, California.

Dear Sir:

We have your favor of the 22nd instant, and complying with your request, we take pleasure in handing you herewith descriptive papers relative to the Government lands in Panama. These lands have only been opened to the Americans to purchase for a very short time, and we have no doubt but what they will be taken up very rapidly, and if you desire to consider the matter we would strongly advise that you fill out the enclosed application blank and forward it to us with the proper remittance at your earliest convenience.

Any information that you may desire on the subject which is not clearly stated in the literature, will be cheerfully furnished.

We trust that you will avail yourself of the opportunity of the land while it is still open.

Yours very truly,

PANAMA DEVELOPMENT CO.

By _____.

S/C.

Enc.

[Endorsed]: U. S. Exhibit 194.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the ruling in U. S. vs. Boyd, and upon the further ground that the same is hearsay. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

LXXXXIX.

The Court erred in overruling the objections of the defendant to the introduction of U. S. Exhibits 195, 196, 197, 198 and 200, and to the reading of the same, which said exhibits read respectively as follows, same being identified by the witness Michael Werner as being letters that he received through the mails. [1042]

(Letterhead of Panama Development Company.)

Los Angeles, May 27, 1911.

Mr. Michael Werner,
1208 C. Street,
San Diego, Calif.

Dear Sir:

Referring to your favor of May 25th, we take pleasure in advising you that a truck farm near the City of Panama would be very profitable at present, but it would hardly be a good venture near David until the railroad is completed.

We have a very complete map of the Republic and the Province of Chiriqui in our office; this map having been made by the Chief of Staff of the War Department in Washington. We do not have, however, any smaller ones at present. There is a very interesting article in the April issue of the "Pan-American Union" regarding the Chiriqui district, and it has several views of different places.

This district is indeed very rich, the most fertile soil in the world, being a rich black loam, twenty feet deep, and we sincerely believe that if you decide to take up twenty acres as you suggest, it will increase in value within the next few years far in excess of your expectations.

The land is all the same price—\$2.50 down and \$2.50 in four years—no interest or taxes, but the first application will of course get the best land, so we trust you will not delay.

We will allow you 10% commission on any business you may send us from amongst your friends.

We are enclosing an application form with a re-

quest that you fill out same and send to us with proper remittance at your earliest convenience.

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By L. R. SMITH.

S/C.

[Endorsed]: U. S. Exhibit 195.

(Letterhead of Panama Development Company.)

Los Angeles, June 1, 1911.

Mr. Michael Werner,

1208 C. Street,

San Diego, California.

Dear Sir:

We are in receipt of your two favors of the 28th ultimo containing two checks for \$25.00 each, and we are preparing contracts as per your instructions and will forward same to you tomorrow.

Regarding the information asked in your letters, will say that one of the officers of this company will be in San Diego some time next week, and will be very glad to confer with you on the subject of an agency.

Yours very truly,

PANAMA DEVELOPMENT CO.

By L. R. SMITH.

S/C.

[Endorsed]: U. S. Exhibit 196. [1043]

(Letterhead of Panama Development Co.)

Los Angeles, June 3, 1911.

Mr. Michael Werner,

1208 C. Street,

San Diego, California.

Dear Sir:—

We take pleasure in handing you herewith Land agreement duly signed and sealed, covering ten (10) acres of land suitable for the raising of vegetables, in the province of Cocle, Republic of Panama; also a receipt for \$25.00. We would ask that you sign duplicate agreement and Power of Attorney, detach same where perforated, and return to us at your earliest convenience. The two sheets to be detached are marked with a cross.

We congratulate you upon your purchase, and assure you that we will use every effort possible to get a superior location, and we trust that you will enjoy the very best returns from same. We offer you our services at any time you may decide to improve property, and will always use our very best efforts in your behalf.

We have placed to your credit the amount of \$2.50, which you may use in subsequent purchases.

Thanking you for having considered this agency in making the purchase, and soliciting a continuance of your valued business, we beg to be,

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By L. R. SMITH.

S/C.

[Endorsed]: U. S. Exhibit 197.

(Letterhead of Panama Development Company)

Los Angeles, June 3, 1911.

Mr. Michael Werner,
1208 "C" Street,
San Diego, California.

Dear Sir:—

Complying with your request of a few days past, we take pleasure in handing you herewith two maps, one of the Republic of Panama, and one showing the land open in Agua Dulce, Province of Cocle. The sold portions of this section are marked.

If you will send us your application at once, we will be able to locate you on any of the unsold tracts of land, and if you consider purchasing sugar land, we would strongly advise you to not delay, as you can at present obtain land on the new railroad and close to the town and harbor.

While these lands are all one price, it is reasonably certain that those located adjacent to the town and where there are American Colonies, will more rapidly advance in value than those a long distance inland. If you purchase immediately, we will be able to place you in a very fine location.

Kindly be good enough to fill out the enclosed application blank and forward to us, together with proper remittance, at your earliest convenience.

Very truly yours,

PANAMA DEVELOPMENT COMPANY.

By L. R. SMITH.

[Endorsed]: U. S. Exhibit 198. [1044]

(Letterhead of Panama Development Company)

Los Angeles, July 11, 1911.

Mr. Michael Werner,

1208 C Ctreet,

San Diego, California.

Dear Sir:

Replying to your letter of the 10th instant, we beg to state that your application for Panama Government lands has been duly forwarded to Panama, and as the Provisional Title will be registered in your name, it will be necessary for you to receive same and endorse over to the purchaser before we can do anything with it.

As soon as it is received, we will take the matter up for you.

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By L. R. SMITH.

McD.

[Endorsed]: U. S. Exhibit No. 200.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, hearsay and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

C.

The Court erred in overruling the objections of the defendant to the introduction in evidence of the following U. S. Exhibit, and to the reading of the same, which said exhibit reads as follows, to wit:

“Application for Land.

No. 2.

PANAMA DEVELOPMENT COMPANY,

216 Mercantile Place,

Los Angeles, California.

Dear Sirs:

Enclosed please find \$25.00 for which please purchase for my account 10 acres of government land in the Republic of Panama, suitable for the cultivation of vegetables, and ——— acres of timber land.

I further agree to pay you the sum of \$2.50 per acre for each and every acre so purchased for my account within a period of four years, it being optional with me as to when I shall make payment during the period named, and it is mutually understood and agreed that I shall not be called upon to pay any interest or taxes under this agreement.

Name. Michael Werner.

Address. #1208-C Street,

San Diego, Cal. [1045]

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

CI.

The Court erred in overruling the objections of

the defendant to the introduction in evidence of U. S. Exhibit 199, and to the reading of the same, which said exhibit reads as follows, to wit:

San Diego, Cal., July 10th, 1911.

Panama Development Co.,

Los Angeles, Cal.

Dear Sir:

Troubles in my family makes it necessary to give back your agreement for me and mine brothers \$25.00 acres tracts in Cocle, Panama. Will you kindly settle up and take back the provisional selling of this land and send me the money (\$50.00) so soon as possible.

Respectfully yours,

MICHAEL WERNER,

1208 C Street,

San Diego, Cal.

NB—I need awful the \$50.00.

[Endorsed]: U. S. Exhibit 199.

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

[1046]

CII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U.

S. Exhibit 203, being 176 land agreements issued by the Panama Development Company, said objections to said introductions being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed. .

CIII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 203, which is 114 applications made for land, and signed by the respective applicants; said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

CIV.

The Court erred in overruling the objections of the defendant to the introduction in evidence of 170 documents entitled "Powers of Attorney," which powers of attorney were numbered and dated, and signed by the respective applicants for land, and witnessed by the employees of the Panama Develop-

ment Company, or others, said exhibit being entitled U. S. Exhibit 204. Said objections to said introduction being taken as follows, to wit: [1047]

We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States, and on the ruling in U. S. vs. Boyd. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

CV.

The Court erred in overruling the objections of the defendant to the testimony of Joseph U. Van Buren, in connection with his conversations and transactions with a Mr. Lynn, and particularly erred in overruling the objections of the defendant to the following question:

Q. Did you have a conversation with him (Lynn) at that time?

—said objections to said introduction being taken as follows, to wit: We object to the introduction of the same as incompetent, irrelevant and immaterial, hearsay, and no foundation laid. And defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

CVI.

The Court erred in overruling the objection of the defendant to the question put to the witness Paul A. Houser:

Q. Now, I show you a letter addressed to you dated June 6, 1911, and ask you whether or not you

received that communication through the mail, and I will ask you whether or not you received that letter in this envelope, which I hand you?

And in permitting any examination of said witness with reference to said letter, and in permitting the introduction of said letter in evidence, same being marked U. S. Exhibit 206, being a letter addressed to the witness on the letterhead of the Panama Development Company, and signed Panama Development Co., by L. R. Smith. [1048]

CVII.

The Court erred in overruling the objections of the defendant to the introduction in evidence of U. S. Exhibit 207, and to the reading of the same, which said exhibit reads as follows, to wit:

(Letterhead of Panama Development Company.)

Los Angeles, June 28, 1911.

Mr. Paul A. Hauser,
1228 Lime Ave.,
Long Beach, California.

Dear Sir:—

We have an opportunity to dispose of some Long Beach property, and if you would care to consider an exchange for some of your lots there, for Panama land, we would be very glad indeed to take the matter up with you.

We are enclosing you herewith maps showing the

exact location in which we could locate you at present.

Yours very truly,
PANAMA DEVELOPMENT COMPANY.
L. R. SMITH,
Secty.

S/C. Enc.

(Envelope, 2 two cent stamps cancelled.)

(Postmark), Los Angeles, Cal. Jun. 28, 6:30 P. M.
1911.

Mr. Paul A. Hauser
1228 Lime Avenue
Long Beach, California.

[Endorsed]: U. S. Exhibit 207.

CVIII.

The Court erred in overruling the objection of the defendant to the question put to the witness Paul A. Houser:

Q. Now in your conversation with Mr. Smith, did he show you this map of Agua Dulce, U. S. Exhibit 43? Did he (Smith) indicate to you where he could locate you?

And in permitting any examination of said witness in reference to any of his conversations and transactions with a Mr. Smith and Redpath, outside the hearing and presence of the defendant. [1049]

CIX.

The Court erred in overruling the objections of the defendant to the question put to the witness D. M. Willits:

Q. And I show you this letter and envelope and ask you whether or not you received that letter and

envelope through the mail?

And in permitting any examination of the said witness with reference to the said letter, and in permitting the introduction of said letter in evidence (same being marked U. S. Exhibit Number 209, and written on a letterhead of the Panama Development Company, addressed to Mr. D. Willits, General Delivery, Tucson, Arizona, and signed "Panama Development Company, By E. A. Lynn").

CX.

The Court erred in overruling the objections of the defendant to the question put to the witness Mrs. J. Klöninger:

Q. What did he (Mr. Redpath) tell you?

And in permitting any examination of the witness with reference to the witness' transactions and conversations with employees or agents of the Panama Development Company or others outside of the presence and hearing of the defendant.

CXI.

The Court erred in overruling the objections of the defendant to the question put to the witness Mrs. J. F. Steele:

Q. What else did he (Byrd) tell you?

And in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

CXII.

The Court erred in overruling the objections of the [1050] defendant to the question put to the

witness David B. Low:

Q. What did they (Byrd and Redpath) tell you?

And in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

Q. Anything said about a railroad?

And in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

Q. Was anything said about anybody connected with the company owning any land down there?

And in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

CXIII.

The Court erred in overruling the objections of the defendant to the question put to the witness Walter A. Leach:

Q. Did he (Maynard) tell you anything about the relations between the Panama Development Company and the Panamanian Government?

And in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

Q. I show you a letter addressed to you, dated August 7th, 1911, signed "Panama Development Company, By G. L. Maynard," and I will ask you whether or not you received that letter?

And in permitting any examination of the said witness with [1051] reference to the said letter and in permitting the introduction of said letter in evidence. (Same being marked U. S. Exhibit 211, being a letter addressed to W. A. Leach, 2226 Clifford Street, Edendale, Los Angeles, Calif., signed "Yours very truly, Panama Development Company, By G. L. Maynard.")

And in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

CXIV.

The Court erred in overruling the objections of the defendant to the question put to the witness, Wellington B. Wheeler:

Q. What did he (L. R. Smith) tell you?

—said objection being as follows, to wit:

We object to the question as being incompetent, irrelevant and immaterial and hearsay.

CXV.

The Court erred in overruling the objections of the defendant to the question put to the witness, Wellington B. Wheeler:

Q. Did he (L. R. Smith) tell you anything about the price of land?

And in permitting any examination of the said

witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

Q. Did he tell you what sort of lands they were—whether they were timber or agricultural land?

And in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of [1052] the presence and hearing of the defendant.

CXVI.

The Court erred in overruling the objections of the defendant to the question put to the witness:

Q. Was anything said about cultivating land—whether or not the company was cultivating it?

—said objections being as follows, to wit:

We object to the question as being incompetent, irrelevant and immaterial, hearsay, leading and suggestive.

CXVII.

The Court erred in overruling the objection of the defendant to the introduction in evidence of U. S. Exhibit No. 212 and to the reading of the same, which said exhibit reads as follows, to wit:

Belmont, Cal., June 23, 1911.

Panama Development Co.,

Dear Sirs:

Please send me a map of the country, and I would like to know what would be the best time to go in there, and I would like to have a hundred acres, where it is the best climate where it would be good

for raising stock. I would want half for cultivation and what is the fare from San Francisco, what language do they speak there, and what kind of people in there, white or black, and how can I get the title to the land.

Yours truly,

STEFAN HLADISH.

—said objections to said introduction being taken as follows, to wit:

We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th amendments to the Constitution of the United States and on the ruling in *U. S. vs. Boyd*. And defendant's exceptions to each and all [1053] of the rulings on said objections were duly and regularly taken and allowed.

CXVIII.

The Court erred in overruling the objection of the defendant to the question put to the witness Stefan Hladish:

Q. I show you a letter and ask you whether or not you received that letter (same being marked U. S. Exhibit No. 213, signed "L. R. Smith," which said exhibit reads as follows:)

"Panama Development Company,
216 Mercantile Place,
Between Fifth and Sixth Streets.

Los Angeles, June 26, 1911.

Mr. Stefan Hladish,

Belmont, California,

Dear Sir:—

We are in receipt of your favor of the 23rd in-

stant, and regret to advise that the maps are not as yet completed; however, we expect them some time within the next two or three days. The maps are in colors showing the different provinces in Panama, and the printers are obliged to put on one color each day, and for this reason it is taking considerable time to get them out.

We still have land open at Agua Dulce, Province of Cocle, about which we wrote you on the 16th, and would advise you by all means to take up land at this point. We are enclosing you a plat of this location, and the town itself is located less than 100 miles from the western entrance of the Canal, which you can locate very readily on the general map; this *we* will be forwarded you in a few days.

We can give you 100 acres in Blocks 19-25-26-39-40-28-29-30-31-32, or anywhere south of the line dividing the purto Agua Dulce. This land is suitable for the raising of stock, or we can locate you in a strictly stock-raising country in the Province of Chiriqui, which is farther up on the new railroad. There are many cattle ranges at present in the Chiriqui country, and all of them are doing well.

The climate is very good in either of these two spots, being very even the year round, the temperature never going above 90 degrees or below 70. The nights always very cool, and a light warm shower every day.

If you take up property at Agua Dulce in the Province of Cocle, we will be able to cultivate same for you under the form of development contract

which will allow you to pay for same out of the crops as harvested.

The fare from San Francisco is about \$100.00; however, this will be materially reduced in a short time.

The language spoken by the natives is Spanish, although the English language will be eventually used entirely. English [1054] is taught in the schools in the Canal Zone, and is spoken by a great percentage of the residents of the City of Panama.

The native Panamanians are about the color of the familiar Mexicans of your locality.

The title to this land is the very best obtainable, coming direct from the purchaser to you.

We trust that you will not delay filing your application with us, and we will assure you that you will have our very best service in the selection of the land.

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

L. R. SMITH."

S/C.

—and in permitting the introduction of said letter in evidence, and in permitting any examination of said witness with reference to the said letter.

CXIX.

The Court erred in overruling the objection of the defendant to the question put to the witness Stefan Hladish:

Q. I show you a letter dated June 26, 1911, addressed to you, and ask you whether or not you received that letter through the mail.

And in permitting any examination of the said wit-

ness with reference to the said letter and in permitting the introduction of the said letter in evidence (same being marked U. S. Exhibit No. 214).

CXX.

The Court erred in overruling the objection of the defendant to the question put to the witness Stefan Hladish:

Q. I show you a letter dated June 28th, addressed to you, and ask you whether or not you received that letter, and in permitting any examination of the said witness with reference to the said letter and in permitting the introduction of the said letter in evidence (same being marked U. S. Exhibit No. 215, and reads as follows:) [1055]

“PANAMA DEVELOPMENT COMPANY,
216 Mercantile Place,
Between Fifth and Sixth Streets.

Los Angeles, July 21, 1911.

Mr. Stefan Hladish,
Box 17,
Belmont, California.

Dear Sir:—

We refer to our letter to you of June 26th, wherein we have written you regarding 100 acres of land in the province of Cocle, Panama, would say that if this location did not suit you, we can locate you in the Province of Chiriqui, which is very fine cattle-raising country, and along the line of the new railroad.

If terms were not such that you could meet, we will gladly arrange them to suit you. The price of the land will advance to \$6.00 per acre August first, and

we would like very much to receive your application before that date.

We take pleasure in handing you herewith a new form of contract which we are willing to enter into with you for the cultivation of land in the Agua Dulce Colony. We believe that this will appeal to you and you will notice that we accept as our pay for planting, etc., one-half of the net profits for the first three years.

We have a letter from Mr. Hernan de la Guardia, President of this Company, dated City of Panama, June 21st, in which he states that the sugar mill and all machinery had been unloaded at the Port of Agua Dulce, and the erection of same would take place at once.

Kindly let us hear from you at your convenience, and thanking you in anticipation of your reply, we beg to be

Yours very truly,

PANAMA DEVELOPMENT COMPANY,

L. R. SMITH."

S/C.

Enc.

[Endorsed]: U. S. v. Lyman. U. S. Exhibit No. 216. Fld. Nov. 18, 1913. Wm. M. Van Dyke, Clk. By Robert E. Rinehart, Deputy Clerk.

CXXI.

The Court erred in overruling the objection of the defendant to the question put to the witness H. G. Cooley:

Q. What did he (Redpath) tell you?
—and in permitting any examination of the said wit-

ness with reference to any transactions or conversations had with any of the [1056] agents or employees of the *Panama Development outside* the presence and hearing of the defendant.

CXXII.

The Court erred in overruling the objection to the defendant to the question put to the witness H. G. Cooley:

Q. Tell us the substance of it, as you remember.

—and in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the *Panama Development Company outside* the presence and hearing of the defendant.

CXXIII.

The Court erred in overruling the objection of the defendant to the question put to the witness H. G. Cooley:

Q. What else did he tell you, if anything?

—and in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the *Panama Development Company outside* the presence and hearing of the defendant.

CXXIV.

The Court erred in overruling the objection of the defendant to the question put to the witness H. G. Cooley:

Q. What else did he tell you about the land—as to whether he could sell it to you or not?

—and in permitting any examination of the said witness with reference to any transactions or conversa-

tions had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

CXXV.

The Court erred in overruling the objection of the [1057] defendant to the question put to the witness H. G. Cooley:

Q. Did he tell you anything about a railroad?

—and in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

CXXVI.

The Court erred in overruling the objection of the defendant to the question put to the witness Archibald D. Cleaver:

Q. What conversation did you have with Mr. Pentland?

—and in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

CXXVII.

The Court erred in overruling the objection of the defendant to the testimony of the witness A. D. Cleaver, and particularly erred in overruling the objection of the defendant to the following question:

Q. After discussing the Syndicate proposition, did he (Mr. Pentland) have any further conversation with you showing any sale of land shown on the Agua

Dulce map? A. Yes, sir.

Q. What was that conversation?

A. He had land laying all around this sugar factory, and by one paying a certain amount of money down that he would get a location right up by the sugar factory,

—said objection to said testimony being taken as follows:

We object to the introduction of the same as irrelevant, incompetent and immaterial and hearsay, and defendant's exceptions to each and all of the rulings on said objections were duly [1058] and regularly taken and allowed.

CXXVIII.

The Court erred in overruling the objection of the defendant to the question put to John Edward Mitchell:

Q. What did Maynard tell you, if anything?

—and in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

CXXIX.

The Court erred in overruling the objection of the defendant to the question put to John Edward Mitchell:

Q. Did he (Maynard) say anything to you about owning any land down there at Panama?

CXXX.

The Court erred in overruling the objection of the defendant to the question put to John Edward Mitchell:

Q. Did he (Maynard) tell you anything about Agua Dulce?

CXXXI.

The Court erred in overruling the objection of the defendant to the question put to John Edward Mitchell:

Q. What else did he (Maynard) tell you? He must have told you something.

CXXXII.

The Court erred in overruling the objection of the defendant to the question put to John Edward Mitchell:

Q. Did he tell you anything about the Panama Government?

CXXXIII.

The Court erred in overruling the objection of the defendant [1059] to the question put to S. H. Jappe:

Q. What did he (Maynard) tell you?

—and in permitting any examination of the said witness with reference to any transactions or conversations had with any of the agents or employees of the Panama Development Company outside of the presence and hearing of the defendant.

CXXXIV.

The Court erred in overruling the objections of the defendant to the testimony of Hernan de la Guardia, and particularly erred in overruling the objection of the defendant to the following question:

Q. What conversation did you have with Mr. Smith at that time?

—and in permitting any examination of the said wit-

ness with reference to any transactions or conversations had with any of the agents, employees or others connected with the Panama Development Company out of the presence and hearing of the said defendant.

CXXXV.

The Court erred in overruling the objections of the defendant to the introduction of the U. S. Exhibit No. 219, being a check, of which the following is a copy, and in permitting any examination of the said witnesses W. I. Madeira, with reference to said check:

Los Angeles, California, _____.

No. —.

NATIONAL BANK OF CALIFORNIA.

Pay to — or order \$—— — Dollars.

PANAMA DEVELOPMENT COMPANY.

JOHN REDPATH, Vice-president,

L. R. SMITH, Sec.

[Endorsed]: 672—Crim. U. S. vs. Lyman. U. S. Exhibit No. 219. Filed Nov. 21, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy.

—the objection to the said introduction being taken as follows, to wit:

We object to the same as incompetent, irrelevant and immaterial [1060] on the ground that the method of its procurement and seizure was in violation of the fourth and fifth amendments to the Constitution of the United States and on the rulings in U. S. vs. Boyd, and defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

CXXXVI.

The Court erred in overruling the objections of the defendant to the introduction of the U. S. Exhibit No. 220, being a check, of which the following is a copy, and in permitting any examination of the said witness W. I. Madeira, with reference to said check:

SECURITY SAVINGS BANK.

No. —.

Los Angeles, Cal., ———, 191——.

Pay to the order of —, \$—— — Dollars.

PANAMA DEVELOPMENT COMPANY.

JOHN REDPATH, Vice-president,

E. A. LYNN, Asst. Sec.

[Endorsed]: 672—Crim. U. S. vs. Lyman. U. S. Exhibit 220. Filed Nov. 21, 1913. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy.

—the objection to the said introduction being taken as follows, to wit:

We object to the same as incompetent, irrelevant and immaterial on the ground that the method of its procurement and seizure was in violation of the 4th and 5th Amendments to the Constitution of the United States and on the rulings in U. S. vs. Boyd, and defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

CXXXVII.

The Court erred in overruling the objections of the defendant to the testimony of John Miller Colon, and particularly [1061] erred in overruling the objection of the defendant to the following question:

Q. What conversation did you have with him (Lyman)?

—said objection being as follows:

Objected to as immaterial and the defendant's exception to the ruling on said objection was duly and regularly made and allowed.

CXXXVIII.

That the Court erred in overruling the objections of the defendant to the introduction of U. S. Exhibit No. 223, being a letter transcribed by the witness Letta Hubb from her notes, and in permitting any examination of the said witness with reference to the said letter, which letter reads as follows:

Book 10, page 1.

Chown, Ussharex, London: Representative sailing
September.

Panama.

Dear Sir:—

Have just written you as follows, which we beg to confirm.

We are also enclosing you a letter addressed to a selected list of names in England who have bought lands in Canada recently, and with this we are sending them a circular entitled "Panama"; likewise a map of Panama and one of a special district which is one of the best sugar producing sections of Panama. This map shows what lands are open to location and what have been sold.

When it is desired, we undertake the cultivation of these lands on shares, providing we are given a three year contract, but we would not care to undertake it for a less period than this, for the reason that it takes about three months to clear the land, the cost of same being \$40.00 (200 fcs.) per acre,

but after the first year there is practically no work, as the cane reproduces itself, and will show a net profit of from \$50.00 to \$75.00 per acre. This is really one of the most lucrative and desirable investments one can make, as sugar planting does not require personal residence, all this work being done under contract.

You will note the men connected with this company are all prominent men, and we may tell you in confidence that it is more than probable that Mr. Guardia will be the next president of Panama.

We see no reason why you should not be able to sell these lands in France and England, and for that matter, on the installment plan, providing at the same time for their cultivation and planting to sugar cane. This is precisely what is being done now by one American Company, who are purchasing their lands from us, and it is not unlikely that we shall likewise undertake this particular work, for there is a world market for sugar, and, as stated before, it is very profitable.

While the price of the lands is to be advanced to \$6.00 (30 fcs.) August 1st, in order to give you an opportunity to become established, we will give you an option, until September 1st, on any part of 2,000 acres, at 25 fcs. per acre, payable [1062] 121½ fcs. per acre upon application, and 121½ fcs. in four years, with no taxes or interest to pay during that interval.

Please bear in mind that these sugar lands are among the most fertile lands in the entire world, and all they have lacked heretofore was transportation

facilities, which are now near at hand. There is little doubt but that they will many times increase in value even if not cultivated, as the opening of the Panama Canal is going to bring a tremendous change to this district.

Regarding the section on the map which we have marked, and recommended to you, this is only about 80 miles from the Western entrance of the Canal, and is on the line of the new railroad, so you will see it is very desirable property indeed.

Now, it is possible that there will be a further advance in the price of lands to \$7.00 (35 fcs.) per acre, and we rather think by December 1st the price will be in the neighborhood of \$10.00 per acre, so that whatever amount you think you can handle you had better secure an option on, otherwise you will have to pay a higher price for it.

You understand, of course, we are acting as Government agents in this development work, and all lands are the same price, and we have not much latitude for making terms, other than already offered. Of course the lands are subject to discount to you of 10%, as previously outlined in an earlier letter.

We should think a very good way to handle these lands would be to form a land company to own, say, one, to two, three or ten thousand acres, and then sell units against that in the way of shares of stock, representing each an acre of land, to be put into sugar cane, say on a basis of £20 per acre, payable on the installment plan, scattered over a period of four years.

We may say in passing that this land would be productive and on a paying basis of not less than £10 per

acre the second year, so they could easily pay for it from the profits of the land. Where we put it into sugar cane, the payment we require would be 125 fcs. per acre when the land is cleared and planted, and 125 fcs. per acre from the first crop harvested, which would be 15 months after planting. We would send you a certificate from a Government Official, the Administrator of lands of that district, showing the land was cleared and planted, before asking you to make any payment other than for the raw land itself, and as the title to this would go to you, we would have no claim on same, but would have on the development work, as that would be done by us, and if you did not pay for it, naturally we would take the crop.

Please bear this in mind, that if you do not want to go to the trouble and expense of having the land cultivated, that the lands themselves will greatly increase in value. Among the most desirable lands, if you do not want to engage in cultivation of same, are the timber lands. They are very valuable, indeed, and can be had on the same terms.

We enclose you a picture of a log, and you will be able to see from this the character of the timber. There are single mahogany trees worth \$80.00 each, or will be when the Canal is opened so they can be gotten to market, and there is not an acre of this land that does not contain timber to the value of 5000 fcs, so you see there are many possibilities in Panama, and if you can advise us just what lines you wish to work, we will do our best to aid you.

We shall have a representative going to Europe in September, and can then bring you anything desired.

Meanwhile we will send you all of our literature, which will give you much information, and we trust lead to business that will result to our mutual benefit.

Very truly yours,

PANAMA DEVELOPMENT COMPANY.

By —————. [1063]

—said objections to said introduction being taken as follows, to wit:

We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th Amendments to the Constitution of the United States and on the rulings in *U. S. vs. Boyd*; and defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

CXXXIX.

The Court erred in overruling the objections of the defendant to the introduction in evidence of *U. S. Exhibit No. 226*, and to the reading of the same, which said Exhibit reads as follows, to wit:

Aug. 15, 1911.

Geo. S. Smith, Dalby-Welch, Ltd.,
Gresham House, Old Broad St.,
London E. C., England.

Gentlemen:

We have your favor of recent date and note you think that later in the season, you think it might be possible to do something with Panama lands in England.

We enclose you herewith three letters which have been sent to the shareholders of the Canadian Land

Company, which list we obtained from you. It is too early yet for an answer, but if anything comes in, we will advise you. Meanwhile, we would like to have your criticism on the enclosed literature and suggest changes to correspond with English customs, and at the same time supply us with the names of such lists as you think it would be advisable for us to use, together with the cost of same, as we propose circularizing again the latter part of September.

Thanking you in anticipation, we are

Yours very truly,

PANAMA DEVELOPMENT COMPANY.

By _____.

McD.

[Endorsed]: #672—Crim. U. S. v. Lyman.
U. S. Exhibit #226 for Iden. [1064]

—said objections to said introduction being taken as follows, to wit:

We object to the introduction of the same as incompetent, irrelevant and immaterial, on the ground that the method of its procurement and seizure was in violation of the 4th and 5th Amendments to the Constitution of the United States and on the rulings in U. S. vs. Boyd, and defendant's exceptions to each and all of the rulings on said objections were duly and regularly taken and allowed.

CXL.

That the Court erred in charging the jury as follows:

The defendant in this case is charged with having placed and caused to be placed in the U. S. Postoffice in the city of Los Angeles, State of Cal., to be sent

and delivered by the P. O. establishment of the U. S. certain letters for the purpose of executing a scheme to defraud, alleged to have been previously devised by him. This scheme is fully set forth and described in the indictment which has been read to you and which you will have with you in the jury-room, and which, therefore, need not be recited here.

CXLI.

That the Court erred in charging the jury as follows:

The instructions which I have given you with reference to the first count apply also to the remaining five counts, except, that, in order to justify a conviction on any one of said five counts, the evidence must show, besides the other elements of the offense, that the defendant placed or caused to be placed in said P. O., to be sent and delivered by said P. O. establishment, the letter mentioned in such count.

CXLII.

That the Court erred in charging the jury as follows:

The Court further instructs you that the rule of law applicable to criminal prosecutions for obtaining money or property by false pretenses, namely the representation or pretense must be [1065] of some existing fact and not a mere expression of opinion or a mere promise as to the future, and that the fraudulent purpose must be something more than an intention not to carry out a promise or contract, does not apply in this case.

The section of the criminal code under which this prosecution was brought denounces as a crime the

mailing or causing to be mailed of a letter in the execution of a scheme to defraud.

The evil sought to be remedied is always important in determining the meaning of a statute. It is common knowledge that nothing is more alluring than the expectation of receiving large returns on small investments. Eagerness to take the chances of large gains lies at the foundation of all lottery schemes, and even when the matter of chance is eliminated, any scheme or plan which holds out the prospect of receiving more than is parted with, appeals to the cupidity of all.

In the light of this, the statute must be read, and so read it includes everything designed to defraud by representations as to the past or present, or suggestions and promises as to the future. Thus, it will also be seen that one of the significant facts is the intent and purpose to defraud without which there can be no conviction.

CXLIII.

That the Court erred in charging the jury as follows:

The Court further instructs you that, if the representations intended to be made as alleged in the indictment were false, but defendant honestly believed them true, then said representations would not be fraudulent. If, however, such representations were false, and defendant, knowing their falsity, or not believing them true, intended they should be made to deceive and induce the persons to whom they were to be made to send or pay money to the Panama De-

velopment Company, then said scheme was one to defraud. [1066]

CXLIV.

That the Court erred in charging the jury as follows:

The Court further instructs you, that, while ordinarily one person is not answerable for the acts or declarations of another, yet the defendant in a criminal as well as a civil action is responsible for any act done or representation made by his command or procurement the same as if said act was done or representations made by him personally. The proof of the command or procurement may be direct or indirect, positive or circumstantial.

CXLV.

That the Court erred in charging the jury as follows:

You are further instructed with reference to the proof of mailing the letters set up in the indictment, that it is not essential to the commission of the offense charged that such letters be deposited in the mail by the defendant himself, or even by another acting under his express direction because a person is equally responsible for the mailing or any particular letter if it is deposited in the P. O. as a natural and probable consequence of any act intentionally done by such person with knowledge, at the time thereof, that such act will naturally and probably result in the mailing of such letter.

You are further instructed that a person is responsible for the mailing of any letter if he sets in operation and makes use of his agency, which, as he

knows at the time, would, according to its established and regular course carry such letter through the mail to the person or persons to whose attention he designed and intended such letter should be brought.

CXLVI.

That the Court erred in charging the jury as follows:

Evidence has been offered of the concealment, escape and flight of the defendant, on this subject the Court instructs you [1067] that acts of concealment, escape or flight by an accused are competent to go to the jury as tending to establish guilt, but they are not to be considered as alone conclusive or as creating a legal presumption of guilt, but only as circumstances to be considered and weighed in connection with other proof with the same caution and circumspection which their inconclusiveness when standing alone, requires.

The Court further instructs you that the presumption of guilt arising from concealment, escape or flight of the accused is a presumption of fact—not of law—and is merely a circumstance tending to increase the probability of defendant's guilt, which is to be weighed by the jury like any other evidentiary circumstance.

CXLVII.

That the Court erred in charging the jury as follows:

You are further instructed that it is not incumbent upon the government to prove every element of the scheme to defraud alleged in the indictment, but it is sufficient in that particular of a scheme to de-

fraud is shown to have been devised, and that such scheme is substantially that described and set out in the indictment.

CXLVIII.

In view of the following question propounded by a juror, and in view of the issues and case as joined and made, the Court erred in replying to the said question and in charging the jury as follows:

Juror BROWNSTEIN.—We would like to be enlightened in regard to the alleged intent of the defendant to defraud. Are we to consider his intent at the time of organizing the Panama Development Company, or at the time the several letters in the indictment were written or mailed, or at any subsequent time? [1068]

A. Replying to the question which you have propounded to me, I instruct you that the mailing of a letter without the fraudulent intent would be no crime. If, however, the evidence satisfies you beyond a reasonable doubt that the fraudulent intent was in the mind of the defendant before the mailing of any one of the letters mentioned in the indictment, then, as to the count in which that letter is set forth, the fraudulent intent is sufficiently established.

CXLIX.

The Court erred in refusing to give the following instruction requested by the defendant:

The Court instructs you, that if any of the representations alleged in the indictment to have been made were false, but the defendant honestly believed them to be true, then such representations were not fraudulent.

CL.

The Court erred in refusing to give the following instruction requested by the defendant:

You are further instructed that if the alleged representations or some of them were not intentionally false, the fact that the alleged scheme failed because of mistakes or lack of judgment, if such caused its failure, does not make the defendant guilty.

You should not find the defendant guilty for mere errors of judgment or overconfidence in his ability to make the alleged scheme a success.

CLI.

The Court erred in refusing to give the following instruction requested by the defendant:

You are instructed that the defendant, John Grant Lyman, in this case is not to be charged with or held criminally responsible for the act or acts of any person connected with the [1069] Panama Development Company unless you believe from the evidence, beyond a reasonable doubt, that the said John Grant Lyman counseled, aided, encouraged or otherwise, with a knowledge of the facts, caused such act to be done or omitted.

CLII.

The Court erred in refusing to give the following instruction requested by the defendant:

Evidence has been given in this case touching the escape and attempted escape of the defendant from the custody of the law. Such evidence is given before you as tending in some degree to indict a consciousness of guilt on the part of the defendant, but I caution you that such evidence is considered, in

law, of the weakest kind, and, being based upon an inference, may or may not tend to show a consciousness of guilt, and taken in consideration with other evidence in the case, may or may not be any import.

CLIII.

The Court erred in refusing to give the following instruction requested by the defendant:

You are instructed that for a person to escape from the custody of the law, or to attempt so to do, or to take flight instead of standing trial, is not sufficient, standing alone, to warrant a conviction.

Such evidence, adduced from the theory that from it may be drawn an inference of a consciousness of wrong doing, but such inference may be wholly repelled by other facts and circumstances in the case, or by some satisfactory explanation of the reason prompting such action, and of all these matters, the jurors are the sole judges.

CLIV.

The Court erred in refusing to give the following instruction requested by the defendant:

The indictment in this case contains six counts, all of [1070] which are substantially the same, except in so far as a different letter is set forth in each count as being the letter which was deposited in the postoffice in furtherance of the alleged scheme.

You must not suffer yourself to hold the defendant responsible for the depositing of any such letter in the postoffice unless, from all the evidence, you believe beyond a reasonable doubt, that he either did deposit such letter, or caused the same to be deposited as it is charged in the indictment, and if you

have a reasonable doubt whether the defendant did or did not deposit, or cause to be deposited any one of the several letters set forth in the indictment, then, as to that particular count or counts, you must acquit the defendant.

CLV.

The Court erred in refusing to give the following instruction requested by the defendant:

You are instructed that by the words "intend to defraud" it is meant in law that the person charged had an intent to deprive one of something dishonestly or to obtain an unconscionable advantage, therefore, if you have a reasonable doubt whether this defendant had such intention or not, you must give him the benefit of such doubt and acquit him.

CLVI.

The Court erred in refusing to give the following instruction requested by the defendant:

You are instructed that in law there is a marked distinction between an intention to deceive and an intention to defraud, and in this case although you may be convinced that the defendant intended to deceive, you must acquit himself if you have a reasonable doubt whether he intended to defraud or not.

CLVII.

The Court erred in overruling and denying the defendant's Motion in Arrest of Judgment. [1071]

CLVIII.

The Court erred in overruling and denying defendant's motion for a new trial.

CLIX.

The Court erred in making, giving and rendering

judgment against the defendant on the indictment herein, for the reason that said indictment does not state an offense against any law of the United States, and for the reason that the first count thereof does not state any offense against the Laws of the United States.

CLX.

The Court erred in pronouncing sentence against the defendant.

PAUL W. SCHENCK and
JOSEPH CITRON,

Attorneys for John Grant Lyman,
Plaintiff in Error.

We hereby certify that the foregoing assignment of errors are made on behalf of the petition for a writ of error herein and are in our opinion well taken, and the same now constitute the assignment of errors upon the writ prayed for.

PAUL W. SCHENCK and
JOSEPH CITRON,

Attorneys for John Grant Lyman,
Plaintiff in Error.

[Endorsed]: No. 672—Crim. United States District Court for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. John Grant Lyman, Defendant. Petition for Writ of Error and Assignment of Errors. Filed Feb. 6, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Paul W. Schenck, 619 to 626 Homer Laughlin Building, Los Angeles, Cal., Attorney for Defendant. [1072]

*In the District Court of the United States, in and
for the Southern District of California, South-
ern Division.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN GRANT LYMAN,

Defendant.

Order Allowing Writ of Error and Supersedeas.

Upon motion of Paul W. Schenck, attorney for the defendant, John Grant Lyman, and upon filing the petition for a Writ of Error and assignment of Errors, IT IS HEREBY ORDERED that a writ of error be and hereby is allowed to have reviewed in the United States Circuit Court of Appeals, for the Ninth Circuit, the verdict and judgment heretofore entered herein. That pending decision upon said writ of error the supersedeas prayed for by the defendant in his petition for a writ of error herein and

is hereby allowed, *~~upon the giving by~~ the defendant

*is admitted to

John Grant Lyman ~~of~~ ^A bail in the sum of \$20,000.00.

Done in open court this 6th day of February, 1914.

OLIN WELLBORN,

District Judge of the United States, for the Southern District of California.

*Amended per minute order of February 16, 1914.
C. E. SCOTT, Deputy Clerk.

[Endorsed]: Original. No. 672—Crim. In the United States District Court, for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. John Grant Lyman, Defendant. Order Allowing Writ of Error and Supersedeas. Received Copy of the Within this 6 Day of Feb., 1914. Edward A. Regan, Attorney for Pltff. Filed February 6, 1914. Wm. M. Van Dyke, Clerk. By C. E. Scott, Deputy Clerk. Paul W. Schenck, 619 to 626 Homer Laughlin Building, Los Angeles, Cal., Attorney for Defendant. [1073]

At a stated term, to wit, the January term, A. D. 1914, of the District Court of the United States of America, for the Southern District of California, Southern Division, held at the courtroom thereof in the city of Los Angeles, on Monday, the 16th day of February, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 672—CRIM. S. D.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN GRANT LYMAN,

Defendant.

Order Amending Order Allowing Writ of Error and Supersedeas.

E. A. Regan, Esq., Assistant to the U. S. Attorney for the Southern District of California, appearing

as counsel for the Government; Paul W. Schenck, Esq., appearing as counsel for defendant; now, good cause appearing therefor, on motion of Paul W. Schenck, Esq., of counsel for defendant, and with the consent of E. A. Regan, Esq., Special Assistant to the U. S. Attorney, of counsel for the Government, it is ordered that that portion of the order allowing writ of error and supersedeas which relates to the supersedeas, made, entered and filed herein on February 6th, 1914, be, and the same hereby is amended by striking out the words "upon the giving by" in the ninth line of said order, and inserting in lieu thereof, the word "and," also striking out the word "of" in the tenth line of said order, and inserting in lieu thereof the words "is admitted to," and it is further ordered that the clerk amend said order and attest the same with a reference to this Order. [1074]

In the District Court of the United States, in and for the Southern District of California, Southern Division.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN GRANT LYMAN,

Defendant.

Bond Pending Decision Upon Writ of Error.

KNOW ALL MEN BY THESE PRESENTS:

That we, John Grant Lyman, of the County of Los Angeles, California, as principal, and The American

Surety Company of New York, a corporation, as surety, are jointly and severally held and firmly bound unto the United States of America in the sum of Eight Thousand Dollars (\$8,000); and we, John Grant Lyman, of the County of Los Angeles, California, as principal, and Angelo R. Vitagliano, of the County of Los Angeles, California, L. M. Winston, of the County of San Bernardino, California, T. M. Lynn, of the County of Los Angeles, California, and F. A. Young, of the County of Los Angeles, California, as sureties, are jointly and severally held and firmly bound unto the United States of America in the further sum of Twelve Thousand Dollars (\$12,000); for the payment of which said sums, we hereby bind ourselves, our heirs, executors, administrators and assigns;

Signed and dated this 20th day of February, A. D. 1914.

Whereas, lately at a term of the District Court of the United States for the Southern District of California, Southern Division, in a suit pending in the said court between the United States of America, plaintiff, and John Grant Lyman, defendant, a judgment and sentence was made, given, rendered, [1075] and entered, against the said John Grant Lyman, and the said John Grant Lyman having obtained a Writ of Error from the United States Circuit Court of Appeals for the Ninth Circuit, to reverse said judgment and sentence, and a citation directed to the United States of America to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California,

pursuant to the terms and at the time fixed in said Citation, which said Citation has been duly served;

And whereas, the said John Grant Lyman has been admitted to bail, pending decision upon said Writ of Error, in the sum of Twenty Thousand Dollars (\$20,000);

Now, therefore, the condition of the above obligation is such, that, if the said John Grant Lyman shall appear either in person or by his attorney, in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said court, and prosecute his Writ of Error, and, if the said John Grant Lyman shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause; and, if the said John Grant Lyman shall surrender himself in execution of said judgment and sentence, if the said judgment and sentence against him be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit; and if the said John Grant Lyman shall appear for trial in the District Court of the United States for the Southern District of California, Southern Division, on such day or days as may be appointed for the retrial of said District Court, and abide by and obey all orders made by said District Court, if the said judgment and [1076] sentence against him be reversed by the United States Circuit Court of Appeals for the Ninth Circuit; then, the above obligation to be void, otherwise

to remain in full force, virtue and effect.

JOHN GRANT LYMAN,

Principal.

AMERICAN SURETY COMPANY OF
NEW YORK.

By F. L. HEMMING,

Resident Vice-president.

[Seal]

By BREWSTER CAMERON, Jr.,

Resident Assistant Secretary.

ANGELO R. VITAGLIANO.

L. M. WINSTON.

T. M. LYNN.

FREDK. A. YOUNG.

Signed, sealed and acknowledged before me this
20th day of February, 1914.

[Seal]

CHAS. N. WILLIAMS,

United States Commissioner in and for the Southern
District of California. [1077]

Angelo R. Vitagliano, being duly sworn, says that
he is a resident and freeholder in the Southern Dis-
trict of California, Southern Division, and is worth
in property situated therein the above sum of Twelve
Thousand Dollars (\$12,000) over and above all his
just debts and liabilities exclusive of property
exempt from execution.

ANGELO R. VITAGLIANO.

Subscribed and sworn to before me this 20th day
of February, 1914.

[Seal]

CHAS. N. WILLIAMS,

United States Commissioner in and for the Southern
District of California.

L. M. Winston, duly affirms that he is a resident and freeholder in the Southern District of California, Southern Division, and is worth in property situated therein the sum of Eight Thousand Dollars (\$8,000) over and above all his just debts and liabilities exclusive of property exempt from execution.

L. M. WINSTON.

Subscribed and affirmed to before me this 20th day of February, 1914.

[Seal]

CHAS. N. WILLIAMS,

United States Commissioner in and for the Southern District of California. [1078]

T. M. Lynn, being duly sworn, says that he is a resident and freeholder in ~~the~~ the Southern District of California, Southern Division, and is worth in property situated therein, the sum of Two Thousand Dollars (\$2,000) over and above all his just debts and liabilities exclusive of property exempt from execution.

T. M. LYNN.

Subscribed and sworn to before me this 20th day of February, 1914.

[Seal]

CHAS. N. WILLIAMS,

United States Commissioner in and for the Southern District of California.

F. A. Young, being duly sworn, says that he is a resident and freeholder in the Southern District of California, Southern Division, and is worth in property situated therein the sum of Two Thousand Dollars (\$2,000) over and above all his just debts and

liabilities exclusive of property exempt from execution.

FREDK. A. YOUNG.

Subscribed and sworn to before me this 20th day of February, 1914.

[Seal]

CHAS. N. WILLIAMS,
United States Commissioner in and for the Southern
District of California.

The foregoing bond is hereby approved this 20th day of February, 1914.

OLIN WELLBORN,
District Judge. [1079]

Extract from the Record Book of the Board of
Trustees
of the
AMERICAN SURETY COMPANY
OF NEW YORK.

The first meeting of the Board of Trustees of the AMERICAN SURETY COMPANY OF NEW YORK, after the annual Stockholders' meeting, was held at the office of the Company, No. 100 Broadway, New York City, on Tuesday, January 20, 1914, at eleven o'clock A. M.

"The Secretary read the report of the Nominating Committee as follows:

"To the Board of Trustees of the
AMERICAN SURETY COMPANY OF NEW
YORK:

"Gentlemen:

"The Committee appointed by the Executive Committee of this Company at their meeting held Tues-

day, December 9, 1913, for the purpose of nominating * * * officers of the Company, * * * for the ensuing year and until their successors are elected, beg leave to report as follows:

“We nominate for

Place.	Resident	Resident
	Vice Presidents.	Assistant Secretaries.
Los Angeles, Cal.	Wm. J. Washburn	F. L. Hemming
	R. G. Lunt	R. D. Weldon
	F. L. Hemming	H. M. Jones
	R. D. Weldon	W. J. Bennett
	S. F. Zombro	Brewster Cameron, Jr.
	W. W. Woods	
	W. S. Bicksler	
	R. G. Hillman	
	W. J. Bennett	
	Brewster Cameron, Jr.	

* * * * *

[1080]

“WHEREUPON, it was.

“RESOLVED, that the Secretary be authorized to cast one ballot on behalf of the Trustees present, for the Members of the Executive Committee, Finance Committee, Committee on Accounts, Committee on Capital Box, Officers and Counsel, as recommended by the Nominating Committee for the ensuing year and until their successors are elected; which was done, and thereupon the aforementioned persons were declared to have been unanimously elected to their respective offices for the ensuing year and until their successors are elected.

* * * * *

“The following resolution was adopted:

“RESOLVED, that the Resident Vice-Presidents

be and they hereby are, and each of them is hereby authorized and empowered to execute and to deliver and to attach the seal of the Company to any and all obligations for or on behalf of the Company, such obligations, however, to be attested in every instance by the Resident Assistant Secretary.”

* * * * *

State of New York,

County of New York,—ss.

I, W. H. Riley, Assistant Secretary of the AMERICAN SURETY COMPANY OF NEW YORK, do hereby certify that I have compared the foregoing extracts and transcripts, from the Record Book of the Board of Trustees of the AMERICAN SURETY COMPANY OF NEW YORK, with the original record of said Board, and that [1081] the same are correct extracts and transcripts therefrom as they appear of record and are set forth and contained in said Record Book; and I further certify that I have compared the foregoing resolutions with the original thereof, as recorded in the Minute Book of said Company, and do certify that the same is a correct and true transcript therefrom, and of the whole of said original resolutions; and that the said resolutions have not been revoked or rescinded.

Given under my hand and the seal of the Company, at the City of New York, this 27th day of January, 1914.

[Seal]

W. H. RILEY,
Assistant Secretary. [1082]

GENERAL CERTIFICATE.

The AMERICAN SURETY COMPANY OF NEW YORK, surety on the foregoing bond, hereby certifies that it has heretofore filed in the proper office of the Department of Justice at Washington, D. C.,
(Insert correct name of Department.)
the following papers:

1. Evidence that it has obtained authority from the Attorney General of the United States under the Act of August 13, 1894, to act as sole surety on bonds in matters affecting the United States.

2. Evidence of the election of general officers of the Company for the current year, with their names.

3. Evidence of the appointment of an agent for service of process in the Southern Judicial District of California, Southern Division.

4. Evidence of the authority of the within-named F. L. Hemming and Brewster Cameron, Jr., to execute bonds of the character of that annexed hereto on behalf of the Company.

5. A copy of its quarterly financial statement, as filed in the Department of Justice.

IN WITNESS WHEREOF, the said AMERICAN SURETY COMPANY OF NEW YORK has caused its seal to be hereto affixed and these presents to be executed by its proper officers at Los Angeles, Cal., this twentieth day of February, 1914.

AMERICAN SURETY COMPANY OF NEW
YORK.

By F. L. HEMING,
Resident Vice-President.

[Seal] Attest: BREWSTER CAMERON, Jr.,
Resident Assistant Secretary. [1083]

The below-mentioned Executive Departments of the United States Government have authorized the filing with bonds executed by Surety Companies of a general certificate on the within form, in lieu of the various papers described therein, viz.:

WAR DEPARTMENT: By letter of the Judge Advocate-General, dated December 27, 1905.

DEPARTMENT OF JUSTICE: By letter of Attorney-General (S. B. S.) dated December 23, 1905.

POSTOFFICE DEPARTMENT: By letter of the Postmaster-General, dated January 16, 1906. (Not necessary to attach any certificate to Letter Carriers' Bonds.)

NAVY DEPARTMENT: By letter of Judge Advocate-General, dated October 19, 1905, transmitting memorandum of the Acting Secretary of the Navy, dated October 18, 1905. (2300-1.)

INTERIOR DEPARTMENT: By letter of the Secretary of the Interior, dated April 26, 1905. (P. M. Div. 1189-05-1988.)

DEPARTMENT OF AGRICULTURE: By letter of the Secretary of Agriculture, dated December 26, 1905.

DEPARTMENT OF COMMERCE AND LABOR: By letter of the Secretary of Commerce and Labor, dated December 6, 1905.

DEPARTMENT OF STATE: Under rulings contained in two letters, dated February 28, 1906, from the Assistant Secretary of State, it is not necessary to attach to bonds to be filed in that Department either a general certificate on this form or the other

papers referred to therein. [1084]

TREASURY DEPARTMENT: Under Department Circular No. 69, Division of Appointments, of November 21, 1907, there **SHOULD NOT** be attached to bonds, to be approved or filed in that Department, any of the below-described papers:

General Certificate.

Affidavit of Justification, executed by Officers or Agents of Surety Companies.

Certificate of the election of the General Officers of do business in the United States, under the Act of Congress of August 13, 1894.

Certificate of the election of the General Officers of the Company.

Power of Attorney of Officer or Agent authorized to execute the bond. (This includes certificates of the election of resident officers by this Company.)

Quarterly Financial Statements.

The Home Office may be relied upon to file such of these papers as may be required by the Department.

ISTHMIAN CANAL COMMISSION: Do not attach a General Certificate, or any papers referred to therein, to bonds to be filed with this Commission.

In preparing a general certificate on the within form, be careful in insert the correct name of the proper Department in the blank that has been left for that purpose. Do no refer to Divisions, Bureaus, etc. [1085]

State of New York,
County of New York,—ss.

H. M. Goff, being duly sworn, says: That he is an

Assistant Secretary of the American Surety Company of New York; that said Company is a corporation duly created, existing, and engaged in business as a surety company under and by virtue of the laws of the State of New York, and has duly complied with all the requirements of the laws of said State applicable to said Company, and is duly qualified to act as surety under such laws. That said Company has also duly complied with and is duly qualified to act as surety under the Act of Congress of August 13, 1894, entitled "An Act relative to recognizances, stipulations, bonds and undertakings and to allow certain corporations to be accepted as surety thereon"; that the within is a true copy of the last statement of the assets and liabilities of said Company as rendered pursuant to Section 4 of said Act of Congress; that said statement is true and that said American Surety Company of New York is worth more than \$5,000,000 over and above all its debts and liabilities and such exemptions as may be allowed by law.

H. M. GOFF.

Subscribed and sworn before me this 13th day of Jan., 1914.

[Seal]

E. A. FARRELL,

Notary Public, New York County, No. 1058.

Register's Office New York County, No. 5015.

Certificate filed in all counties. [1086]

AMERICAN SURETY COMPANY OF NEW YORK.

General Offices, 100 Broadway.

Company's Office Building, Incorporated
100 Broadway, New York. April 14, 1884
(Cut, showing Building)

Financial Statement, December 31, 1914.

RESOURCES.

Real Estate,

Home Office Building

and Land, unencum-

bered. \$3,000,000.00

N. Y. City Water

Front, unencumbered 166,047.91

\$3,166,047.91

Stocks and Bonds,

Market Value. 3,888,528.75

Mortgage and Collat-

eral Loans. 75,276.36

Cash in Banks and

Offices. 939,866.58

Premiums in Course of

Collection. 581,991.60

Accrued Interest and

Rents. 67,415.21

\$8,719,126.41

LIABILITIES.

Capital Stock	\$5,000,000.00	
Surplus	972,128.95	
Reserve for Re-Insur-		
ance	1,839,101.75	
Reserve for Contingent		
Claims	689,112.88	
Reserve for Uncollect-		
ible Premiums	100,000.00	
Reserve for Contingent		
Expenses	78,236.04	
Bills and Accounts Pay-		
able, not due	40,546.79	
		<hr/>
		\$8,719,126.41

[1087]

[Endorsed]: No. 672—Crim. United States District Court, Southern District of California, Southern Division. United States of America, vs. John Grant Lyman, Defendant. Bond Pending Decision upon Writ of Error. Filed Feb. 20, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. [1088]

In the District Court of the United States of America, in and for the Southern District, Southern Division.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN GRANT LYMAN,

Defendant.

Affidavit in Forma Pauperis.

State of California,

County of Los Angeles,—ss.

I, John Grant Lyman, defendant in the above-entitled cause, being sworn, depose and say as follows:

That I intend petitioning this Honorable Court for a Writ of Error, to have reviewed in the United States Court of Appeals for the Ninth Circuit the verdict and judgment heretofore rendered herein, and that I will rely upon the following assignments of error, to wit:

A. That the Court erred in permitting certain witnesses, alleged agents of the defendant or the Panama Development Company, to testify against the said defendant.

B. That the Court erred in admitting private and other papers, books and documents wrongfully seized, and belonging to the defendant and Panama Development Company, in evidence against the said defendant.

C. That the Court erred in giving certain instructions.

D. That the Court erred in admitting testimony concerning [1089] other corporations alleged to have been formed and being operated simultaneously with the Panama Development Company.

That I am advised by counsel and believe that there was and is manifest error in the record and proceedings had in such cause, and in the making, giving, rendition, and entry of such judgment and sentence, to my great injury and damage; that owing

to my poverty I am unable to pay the costs required by law, or give security therefor, in order to perfect and prosecute the said writ of error, and that I am further unable to pay the cost of a transcript of the testimony necessary to perfect the said writ of error.

JOHN GRANT LYMAN.

Subscribed and sworn to before me this 30th day of January, 1914.

[Seal]

WM. M. VAN DYKE,
Clerk of the U. S. District Court.

By C. E. Scott,
Deputy Clerk.

[Endorsed]: Original. 672—Crim. In the District Court of the United States of America, in and for the Southern District, Southern Division. United States of America, Plaintiff, vs. John Grant Lyman, Defendant. Filed January 30, 1914. Wm. M. Van Dyke, Clerk. By C. E. Scott, Deputy Clerk. Affidavit in Forma Pauperis. Received copy within this 30th day Jan., 1914. Edward A. Regan, Special Asst. Paul W. Schenck, Criminal Law, Mason Opera House Building, Los Angeles, California. [1090]

In the District Court of the United States of America, in and for the Southern District, Southern Division.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN GRANT LYMAN,

Defendant.

**Order Allowing Prosecution of Writ of Error in
Forma Pauperis.**

On reading the affidavit filed in this court by the defendant, John Grant Lyman, and good cause appearing therefor,

IT IS HEREBY ORDERED that the said defendant be allowed to perfect and prosecute his Writ of Error, in *forma pauperis*, to have reviewed in the United States Circuit Court of Appeals, for the 9th Circuit, the verdict and judgment heretofore rendered herein, without being required to prepay any fees or costs, or any fees or costs for the printing of the record in the Appellate Court, nor shall he be required to give security therefor.

OLIN WELLBORN,

District Judge.

Dated this 6th day of February, 1914.

[Endorsed]: Original. 672—Crim. In the District Court of the United States of America, in and for the Southern District, Southern Division. United States of America, Plaintiff, vs. John Grant Lyman, Defendant. Order to Sue Out Writ of Error in Forma Pauperis. Filed February 6, 1914. Wm. M. Van Dyke, Clerk. By C. E. Scott, Deputy Clerk. Paul W. Schenck, Criminal Law, Mason Opera House Building, Los Angeles, California. [1091]

In the District Court of the United States of America, in and for the Southern District of California, Southern Division.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN GRANT LYMAN,

Defendant.

**Certificate of Clerk U. S. District Court to
Transcript of Record.**

I, Wm. M. Van Dyke, Clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing one thousand ninety-one (1091) typewritten pages, numbered from 1 to 1091, inclusive, and comprised in three (3) volumes, to be a full, true and correct copy of the Judgment-roll, Bill of Exceptions, Petition for Writ of Error, Assignment of Errors, Order for Writ of Error, Amended Order Allowing Writ of Error, Bond for Appearance Pending Determination, Writ of Error, Affidavit in Forma Pauperis and Order Allowing Prosecution of Writ of Error in Forma Pauperis, and that the same, together constitute the return to the annexed Writ of Error in the above and therein entitled cause.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said District

Court of the United States of America, in and for the Southern [1092] District of California, Southern Division, this 8th day of ~~December~~, January, in the year sixteen of our Lord, one thousand nine hundred and ~~fifteen~~, and of our Independence, the one hundred and fortieth.

[Seal]

WM. M. VAN DYKE,
Clerk of the District Court of the United States of America, in and for the Southern District of California.

By Leslie S. Colyer,
Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled January 8, 1916. R. S. B.]

[Endorsed]: No. 2746. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Southern District of California, Southern Division.

Received January 15, 1916.

F. D. MONCKTON,
Clerk.

Filed February 5, 1916.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to May 1, 1914, to Docket
Cause and File Record.**

ORDER EXTENDING TIME TO FILE
RECORD.

On defendant's motion and good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the first day of May, 1914.

Dated at Los Angeles, February 6th, 1914.

OLIN WELLBORN,

U. S. District Judge for the Southern District of
California.

[Endorsed]: No. 672—Crim. In the United States District Court, for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. John Grant Lyman, Defendant. Order Extending Time to File Record.

No. ——. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16

Enlarging Time to — to File Record Thereof and to Docket Case. Filed Feb. 9, 1914. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to August 1, 1914, to Docket
Cause and File Record.**

On defendant's motion and good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the first day of August, 1914.

Dated at Los Angeles, April 23d, 1914.

OLIN WELLBORN,

U. S. District Judge for the Southern District of
California.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error, Order Extending Time to File Record. Filed Apr. 27, 1914. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to October 1, 1914, to Docket
Cause and File Record.**

On defendant's motion and good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the 1st day of October, 1914.

Dated at Los Angeles, July 28th, 1914.

OLIN WELLBORN,

United States District Judge for the Southern District of California.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error. Order Enlarging Time to Docket Cause and File Record. Filed Jul. 30, 1914. F. D. Monekton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to December 1, 1914, to
Docket Cause and File Record.**

On defendant's motion and good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the 1st day of December, 1914.

Dated at Los Angeles, September 28th, 1914.

OLIN WELLBORN,

United States District Judge Southern District of
California.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error. Order Enlarging Time to Docket Cause and File Record. Filed Sep. 30, 1914. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to January 1, 1915, to Docket
Cause and File Record.**

On defendant's motion and good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the 1st day of January, 1915.

Dated at Los Angeles, November 30th, 1914.

OLIN WELLBORN,

United States District Judge for the Southern District of California.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error. Order Extending Time to Docket Cause and File Record. Filed Dec. 2, 1914. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to February 1, 1915, to
Docket Cause and File Record.**

Good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the first day of February, 1915.

Dated at Los Angeles, December 28th, 1914.

OLIN WELLBORN,

United States District Judge for the Southern District of California.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error. Order Extending Time to File Record. Filed Dec. 29, 1914. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to April 1, 1915, to Docket
Cause and File Record.**

Good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the first day of April, 1915.

Dated at Los Angeles, January 18th, 1915.

OLIN WELLBORN,

United States District Judge for the Southern District of California.

[Endorsed]: No. ——. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error. Order Extending Time to File Record. Filed Jan 29, 1915. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to July 1, 1915, to Docket
Cause and File Record.**

Good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the first day of July, 1915.

Dated at Los Angeles, this 30 day of March, 1915.

BLEDSON,

United States District Judge.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error. Order Extending Time to File Record. Filed Apr. 19, 1915. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to September 1, 1915, to
Docket Cause and File Record.**

Good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same hereby is enlarged and extended to and including the first day of September, 1915.

Dated at Los Angeles this 17th day of June, 1915.

ROSS,

Circuit Judge.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman vs. United States of America. Order Extending Time to File Record. Filed Sep. 7, 1915. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to December 1, 1915, to
Docket Cause and File Record.**

Good cause appearing therefor, IT IS HEREBY ORDERED that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, be, and the same hereby is enlarged and extended to and including the first day of December, 1915.

Dated at Los Angeles this 27 day of August, 1915.

ROSS,
Circuit Judge.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. John Grant Lyman vs. United States of America. Order Extending Time to File Record. Filed Sep. 7, 1915. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals,
Ninth Judicial Circuit.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Order Extending Time to February 1, 1916, to
Docket Cause and File Record.**

Good cause appearing therefor, IT IS HEREBY ORDERED, that the time heretofore allowed said

plaintiff in error to docket said cause and file the record thereof with the clerk of the United States Circuit Court of Appeals, for the Ninth Circuit be, and the same hereby is enlarged and extended to and including the first day of February, 1916.

Dated at Los Angeles, this 29 day of November, 1915.

ROSS,
Circuit Judge.

[Endorsed]: No. ——. United States Circuit Court of Appeals, for the Ninth Circuit. John Grant Lyman, Plaintiff in Error, vs. United States of America, Defendant in Error. Order Extending Time to Docket Cause and File Record. Filed Dec. 6, 1915. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals, Ninth
Judicial District.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendants in Error.

**Order Extending Time to February 8, 1916, to
Docket Cause and File Record.**

**ORDER EXTENDING TIME TO FILE ORIGINAL
CERTIFIED TRANSCRIPT OF RECORD.**

Good cause appearing therefor, IT IS HEREBY ORDERED, that the time heretofore allowed said plaintiff in error to docket said cause and file the

record thereof with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the 8th day of February, 1916.

Dated at Los Angeles, January 28th, 1916.

ERSKINE M. ROSS,
United States Circuit Judge.

*In the United States Circuit Court of Appeals, Ninth
Judicial District.*

JOHN GRANT LYMAN,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendants in Error.

**Stipulation Extending Time to February 8, 1916, to
Docket Cause and File Record.**

STIPULATION EXTENDING TIME TO FILE
ORIGINAL CERTIFIED TRANSCRIPT OF
RECORD.

IT IS HEREBY STIPULATED AND AGREED
that the time heretofore allowed said plaintiffs in
error to docket said cause and file the record thereof
with the Clerk of the United States Circuit Court of
Appeals for the Ninth Circuit, be hereby enlarged
and extended to and including the 8th day of Feb-
ruary, 1916.

Dated this 28th day of January, 1916.

ALBERT SCHOONOVER, U. S. Atty.,

M. G. GALLAGHER, Asst.,

Attorneys for Defendants in Error.

PAUL W. SCHENCK and

JOS. CITRON,

Attorneys for Plaintiff in Error.

[Endorsed]: No ——. In the United States Circuit Court of Appeals, Ninth Judicial District, State of California. John Grant Lyman, Plaintiff in Error, vs. The United States of America, Defendants in Error. Order Extending Time to File Original Certified Transcript of Record. Filed Feb. 1, 1916. F. D. Monckton, Clerk.

No. 2746. United States Circuit Court of Appeals, for the Ninth Circuit. Twelve Orders Under Rule 16 Enlarging Time to February 8, 1916, to File Record Thereof and to Docket Case. Refiled Feb. 5, 1916. F. D. Monckton, Clerk.